

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
Sherman Division

ED BUTOWSKY, in his Individual And Professional Capacities,)	
)	
Plaintiff,)	
)	
v.)	<u>Case No. _____</u>
)	
DOUGLAS H. WIGDOR,)	TRIAL BY JURY IS DEMANDED
)	
WIGDOR LLP)	
)	
-and-)	
)	
ROD WHEELER)	
)	
Defendants.)	
)	

COMPLAINT

Plaintiff, Ed Butowsky, in his personal and professional capacities, by counsel, files the following Complaint against Defendants, Douglas H. Wigdor (“Wigdor”), Wigdor LLP, and Rod Wheeler (“Wheeler”), jointly and severally.

Plaintiff seeks (a) compensatory damages, treble damages and punitive damages in the sum of **\$118,000,000.00**, (b) prejudgment interest on the principal sum awarded by the Jury from June 23, 2017 to the date of Judgment at the rate of five percent (5%) per year, (c) attorney’s fees, and (d) costs – arising out of the Defendants’ defamation, business disparagement, civil conspiracy, and acts of racketeering activity.

I. INTRODUCTION

Wigdor Law Retweeted

 **The New York Times** 
@nytimes

“Am I at war with Fox?” the lawyer Douglas Wigdor repeated the question he was asked. “Yeah, I guess I am.”

 Leading the Legal War Against Fox
nytimes.com

1. This is a case about greed, extortion and the malicious, corrupt and unethical business practices of Douglas H. Wigdor (“Wigdor”) and his accomplices.

2. For well over a year between 2017 and 2018, Wigdor engaged in an unrepentant, full-blown, global effort to extort money and concessions from Fox News Network LLC and Twenty-First Century Fox, Inc. (collectively, “Fox”) and to destroy Fox’s brand, business and value as a public company (NASDAQ: FOXA). Acting individually and in concert with others – including Rod Wheeler (“Wheeler”), a person recruited and paid to be a “client”, and David Folkenflik (“Folkenflik”), a media correspondent with an axe to grind against Fox – Wigdor used main stream media, print media and social media (Twitter, Facebook and YouTube) as weapons to publish, republish, tweet, retweet, post, share and promote false and defamatory statements about Fox.

3. In June 2017 – with actual knowledge of the falsity of his statements – Wigdor maliciously dragged Plaintiff, Ed Butowsky, an innocent citizen, into his war with Fox. Wigdor manufactured fake news about Butowsky in furtherance of a scheme to extort money from Fox. Butowsky was a very successful investment advisor with a stellar reputation and clientele throughout Texas. He was a confident, respected, well-liked, magnanimous and jovial colleague, friend, husband and father. Wigdor consciously destroyed Butowsky’s name and reputation and gravely injured his business.

4. Beginning in June 2017, Wigdor knowingly manufactured and published multiple false and defamatory statements about Butowsky, including that:

- Ed Butowsky colluded with the President of the United States¹ and Fox to publish “fake news” – that murdered Democratic National Committee (“DNC”) staffer, Seth Rich, leaked certain DNC/Clinton emails to WikiLeaks during the 2016 Presidential primaries – in order to obfuscate and conceal the “truth”: that President Trump colluded with Russia in an attempt to influence the outcome of the Presidential election;

-and-

- Ed Butowsky aided, abetted and enticed Fox to publish an article that fabricated and falsely attributed certain quotations to Wheeler, who was investigating the murder of Seth Rich.

Wigdor published these false and defamatory statements with actual malice. His goal in publishing the statements was to extort \$60 million in settlements from Fox in sexual assault cases that Wigdor had filed or was going to file against Fox. At the time he published these and many similar false and defamatory statements about Butowsky,

¹ In truth, Ed Butowsky has never met the President of the United States. Butowsky has never communicated with the President, directly or indirectly, by telephone, by email, by text, by direct message, or otherwise. Neither the President nor anyone in his Administration has ever asked Ed Butowsky to do anything.

Widgor knew the statements were false. Indeed, Widgor manufactured facts that he knew to be untrue and suborned Wheeler's public misrepresentations.

5. The intensity, degree and breadth of Wigdor's media and digital campaign of defamation is unprecedented. In his effort to extort Fox, Wigdor knowingly lied and intentionally spread those lies to millions upon millions of people world-wide, causing massive loss of income and business, insult, injury, mental suffering, embarrassment and humiliation to Butowsky.

6. In this case, Ed Butowsky seeks money damages for the destruction of his good name and reputation. Wigdor operated a fake news cartel. He recklessly embroiled an innocent Texas citizen in his war against Fox. He went to unimaginable lengths to commit extortion. Wigdor's unquestionable defamation, conspiracy, acts of racketeering activity, misconduct and indiscriminate use of the press and social media to defame must be stopped. Wigdor holds a law license. Wigdor has committed criminal or deliberately wrongful acts that reflect adversely on his honesty, trustworthiness or fitness to practice law. He has engaged in conduct involving dishonesty, fraud, deceit and misrepresentation. He and his associates cannot be allowed to create fake news and use the press and social media as a weapon to disseminate those false narratives. Wigdor and Wheeler should be punished for their unlawful actions and a very strong message needs to be sent to prevent others from acting in a similar way.

II. PARTIES

7. Plaintiff, Ed Butowsky ("Butowsky"), is a citizen of Texas. Butowsky is 56 years-old. He resides with his family in Plano, Texas. He has a long history of generously helping people in need. Butowsky is an internationally recognized expert in

the investment wealth management industry. He has been in the financial services industry for over twenty-nine (29) years. He started his career with Morgan Stanley, where he was a Senior Vice President in private wealth management. In his eighteen (18) years with Morgan Stanley, Butowsky was the firm's top producer nationally as well as the first advisor to surpass one billion dollars in assets under management. He was recognized as a member of both the Chairman's Club and the Equity Club at Morgan Stanley, a distinction reserved for only the firm's top advisors. In 2005, Butowsky launched Chapwood Investments, LLC, a Plano, Texas-based, private wealth management advisory firm focused on providing comprehensive financial counseling and investment advice to wealthy families and individuals. He was nominated as Top Financial Advisor in the World by Reuters in 2007. Through his work with professional athletes, Butowsky was prominently featured in both the ESPN Movie, *Broke* [https://www.youtube.com/watch?v=1IhmiE_Hs0I], and the blockbuster Sports Illustrated article, “How (and Why) Athletes Go Broke”. [<https://www.si.com/vault/2009/03/23/105789480/how-and-why-athletes-go-broke>].

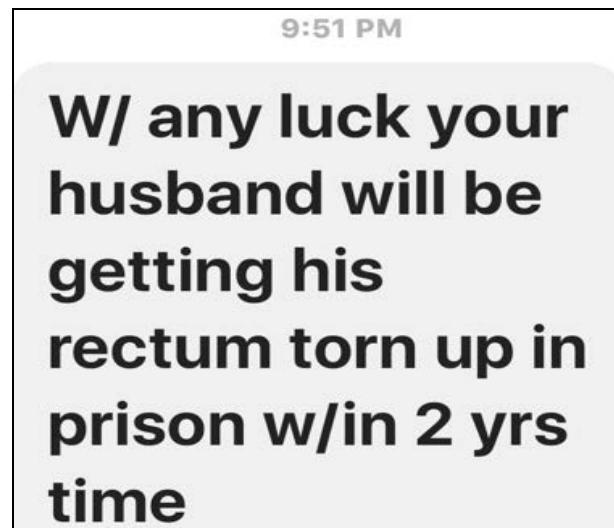
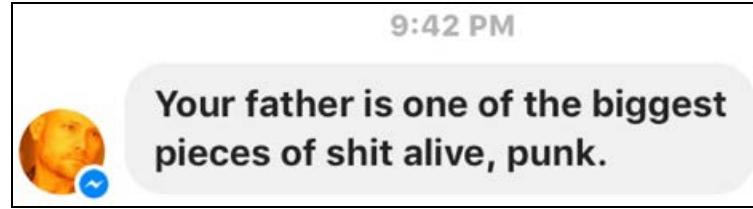
8. Prior to Wigdor's character assassination, Butowsky was a frequent guest on CNN, ABC, CBS, NBC, CNBC, Fox Business News, FOX News Channel, Bloomberg TV, and China TV. Butowsky had made hundreds of appearances on national television and was often seen on “Varney and Co”, “Closing Bell”, “Street Signs”, “Your World w/ Cavuto”, “America Live” with Megyn Kelly, “Willis Report”, “America's News HQ”, “Taking Stock” with Pimm Fox, TheBlaze TV with Glenn Beck, and “Wilkow!” with Andrew Wilkow. He was also regularly heard on radio shows around the country such as “Mad Dog Radio” and “Bloomberg Radio”, discussing wealth

management, and other subjects that are of interest and timely related to the finance/investments world.

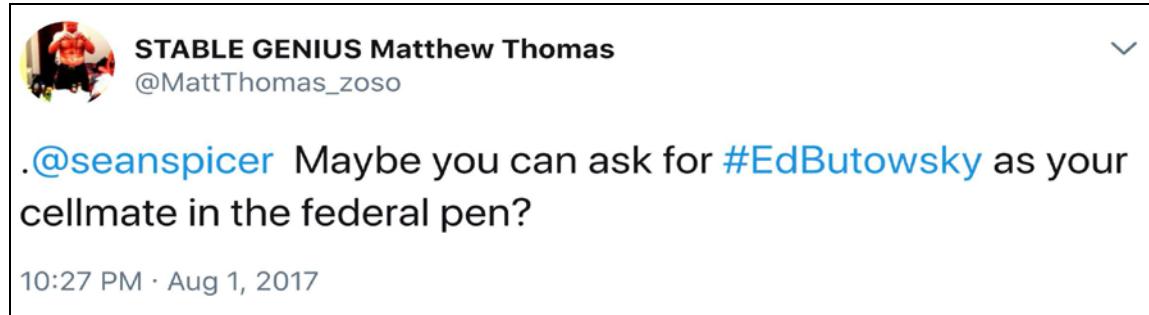
9. Prior to the global smear campaign orchestrated by Wigdor, Butowsky enjoyed an untarnished personal and professional reputation in the community in which he lives and works, with clients, with colleagues in business, and with his many friends. Wigdor and Wheeler's defamation spread like wildfire throughout mass media, social media and over the Internet, causing Butowsky to be ostracized, causing enormous loss of business (including, without limitation, the termination and loss of Chapwood's Investment Manager Service Agreement with Charles Schwab), and causing Butowsky substantial personal injury, fear, and mental and physical pain and suffering. Butowsky has received death threats to his family, damage to his home in Plano, and thousands of *ad hominem* attacks. The ugly effect and impact of Wigdor's defamation is captured by the following Facebook post by Butowsky's daughter, Lauren:

I will never forget going on twitter, seeing messages calling for mine and my brother's murders because "that's what Ed deserves." I will never forget people harassing my mother, brother, myself, and my grandparents for no other reason than we were related to Ed. I will never forget seeing a man tweet at my company telling them they should be ashamed to have hired me. I will never forget people tweeting pictures of my brother identifying him as Ed's son. I will never forget being so afraid for the safety of my family because of the inundation of death threats.

Butowsky and his family were attacked mercilessly on social media. "Matt Thomas" sent the following messages to Butowsky's wife and son via Facebook:



“MattThomas_zoso” tweeted the following:



Other tweets were far worse. Wigdor’s defamation devastated Butowsky.

10. The Defendants are individuals, and/or a group of individuals associated in fact and who are part of a fake news cartel (a RICO enterprise) that engages in interstate commerce by the use of one or more instrumentalities, including, but not limited to, the Internet, computers and telephone, mails and facsimile. Through a pattern of racketeering activity, involving acts or threats of extortion chargeable under State law and punishable by imprisonment for more than one year, mail fraud and wire fraud in violation of Title 18 U.S.C. §§ 1341 and 1343, the Defendants have maintained, directly or indirectly, an interest in or control of an enterprise which is engaged in, or the activities of which affect, interstate commerce. While employed by or associated with such enterprise, the Defendants conducted or participated, directly or indirectly, in the conduct of such enterprise's affairs through a pattern of racketeering activity. The Defendants have engaged in activity that is prohibited by Title 18 U.S.C. §§ 1962(b), and 1962(c).

11. Defendant, Wigdor, is an individual who is a citizen of New York. He is a partner of Defendant, Wigdor LLP, a New York registered limited liability partnership (Wigdor and Wigdor LLP are collectively referred to hereinafter as "Wigdor"). Jeanne M. Christensen ("Christensen") and Michael J. Willemin ("Willemin") are partners of Wigdor. None of Wigdor's partners is a citizen of Texas.

12. At all times relevant to this action, Wigdor knew that Butowsky lived and worked in Texas. Wigdor knew that Butowsky managed a registered investment advisor in Texas. Wigdor knew that the publication of false and defamatory statements would injure Butowsky's business and personal interests in Texas. Wigdor purposefully published statements that hurt Butowsky in Texas.

13. Wigdor operates and is associated with a fake news cartel that includes main stream media outlets used by Wigdor to further the cartel's nefarious purposes. Although Wigdor masquerades as a law firm, Wigdor employs criminal means to shake down targeted victims. Wigdor is proud of his methods and openly brags about his "press strategy". [See *infra*]. Although Wigdor is an attorney, most of his time is spent in front of cameras or giving incendiary interviews to MSNBC, CNBC, CNN, the New York Times, Bloomberg Businessweek, and many other main stream media outlets, in which Wigdor vigorously promotes himself and his causes, especially his "crusade" against Fox. Wigdor uses the "court of popular opinion" – *i.e., the press and social media* – to extort money, property and concessions from his enemies. Wigdor's war against Fox is featured front and center on Wigdor's website and on his YouTube channel – *Wigdor LLP – Employment Lawyer NYC* – where publishes sound bites and personal praise. [<https://www.youtube.com/channel/UCeogDStcI35nkzCJYNatVBQ>].

14. Wigdor claims to be a specialist in sexual harassment and assault cases. His website, *inter alia*, notes that he has represented "over 20 employees at Fox News in their claims of gender discrimination, race discrimination, retaliation and defamation against the network". [<https://www.wigdorlaw.com/portfolio/douglas-h-wigdor/>].

Wigdor's website formerly represented that:

"Mr. Wigdor currently represents thirteen clients who have alleged racial discrimination against Fox. Mr. Wigdor also represents Rod Wheeler, a Fox contributor in an 'explosive' lawsuit alleging defamation in connection with a story published about murdered DNC staffer Seth Rich, Scottie Nell Hughes, a former Fox contributor in a lawsuit alleging retaliation after she complained of sexual assault by Fox Business host Charles Payne, and Lydia Curanaj, a Fox5 reporter in a lawsuit alleging gender and pregnancy discrimination against Fox News. The lawsuits join a succession of sexual harassment allegations made against Fox, and have been extensively reported on by both national and international media and referred to as a 'Normandy like' legal assault."

Wigdor operates an active website that targets citizens of Texas, and encourages them to call Wigdor for advice and representation.

15. Wigdor is a sophisticated expert who litigates his cases in the press. He is a high net worth individual, who has sufficient assets and net worth to pay punitive damages in the maximum amount permitted under Texas law.

16. Defendant, Wheeler, is a citizen of Maryland. Wheeler is a disgraced DC police officer, who was terminated from his position in 1995 because of a history of distorting and misrepresenting facts. Wheeler was suspended from the police force after testing positive for marijuana in a random drug test. Eventually, he was dismissed. After working for McDonalds for some time, Wheeler became a “crime analyst”. Wheeler is infamous for a story he concocted about an underground network of “pink pistol packing lesbian gangs” in the United States. [<https://www.splcenter.org/fighting-hate/intelligence-report/2007/rod-wheeler-claims-o%20%99reilly-factor-lesbian-gangs-are-raping-young-girls>]. Although Wheeler held himself out to Butowsky and claimed to be a “private investigator”, in truth, as Butowsky learned after-the-fact, Wheeler has no license. All traces of Wheeler’s “investigative” firm, Capitol Investigations, LLC, have been wiped from the Internet. <https://www.washingtoncitypaper.com/news/city-desk/article/20863214/nownotorious-private-investigator-in-seth-rich-case-is-unlicensed-in-dc>].

17. This action involves the Defendants’ conscious decision to fabricate a false narrative and manufacture claims against Butowsky to extort settlements of putative “discrimination” claims that Wigdor had filed or planned to file against Fox. The nature

of the Defendants' racketeering activity, its continuity, relatedness and breadth, and the threat that it will continue indefinitely in the future is described below in this Complaint.

III. JURISDICTION AND VENUE

18. The United States District Court for the Eastern District of Texas has subject matter jurisdiction over this action pursuant to 28 U.S.C. § 1331 (Federal Question), 28 U.S.C. § 1332 (Diversity Jurisdiction), and 28 U.S.C. § 1337 (Supplemental Jurisdiction). The parties are citizens of different States and the amount in controversy exceeds the sum or value of \$75,000, exclusive of interest, costs and fees.

19. The Defendants are subject to specific personal jurisdiction in Texas. They committed multiple acts of defamation and intentional torts, in whole or part, in Texas. They have minimum contacts with Texas such that the exercise of personal jurisdiction over them comports with traditional notions of fair play and substantial justice and is consistent with the Due Process clause of the United States Constitution. Defendants' defamation was purposefully directed at Texas and was continuous and systematic. Butowsky's claims directly arise from and relate to Defendants' publication of false and defamatory statements in Texas. *E.g.*, *TV Azteca v. Ruiz*, 490 S.W.3d 29 (Tex. 2016) (citing *Keeton v. Hustler Magazine, Inc.*, 465 U.S. 770 (1984) and *Calder v. Jones*, 465 U.S. 783 (1984)).

20. Venue is proper in the Sherman Division of the United States District Court for the Eastern District of Texas because Wigdor, Wheeler and their agents published and republished defamatory statements to a wide audience that includes persons who reside within the Sherman Division. Wigdor and Wheeler's defamation caused substantial harm to Butowsky's personal and professional reputations in Texas. A

substantial part of the events giving rise to the claims stated in this action occurred in the Eastern District of Texas.

IV. STATEMENT OF MATERIAL FACTS

A. Wigdor and Wheeler Had Actual Knowledge That Their Statements Were False – They Defamed And Disparaged Butowsky In Spite Of That Knowledge

21. At all times relevant to this action, Wigdor and Wheeler had actual knowledge that their written and oral statements about Butowsky were false. Wigdor and Wheeler knew Butowsky had never colluded with the President of the United States or with Fox to publish “fake news”. Indeed, Wigdor and Wheeler had no evidence that the President even knew Butowsky. Wigdor also knew that Butowsky had never supported an effort by Fox to fabricate and falsely attribute quotations to Wheeler – indeed, Wigdor knew – actually knew – that Wheeler had been accurately quoted by Fox.

22. Anyone in the same or similar circumstances as Wigdor in June 2017 would have harbored serious doubt as to whether the statements of his “source”, Wheeler, were true. Yet, in spite of the facts known to Wigdor, he and Wheeler proceeded upon a course of action in furtherance of a joint plan that was intended to profit Wigdor and Wheeler and destroy the good name and reputation of Butowsky.

23. The truth was well-known to Wigdor and Wheeler, not only from Wheeler’s own text messages and emails (described in detail below), but from public records (including videos in which Wheeler appeared and audio recordings) readily available to Wigdor on the Internet.

24. Even if Wigdor had completely ignored (a) Wheeler’s text messages and emails and other evidence in Wigdor’s possession, and (b) the video and audio recordings and other information publicly available on the Internet, on June 27, 2017 Wigdor

received a letter from counsel for Butowsky, David B. Harrison, Esquire (“Harrison”) that put Wigdor on actual notice of the falsity of his statements about Butowsky.

25. On June 23, 2017, Wigdor invited Harrison to review a draft of a lawsuit. Wigdor’s invitation was unsolicited and there were no settlement negotiations ongoing. Wigdor published the draft document to Harrison at Wigdor’s law office. Harrison was shocked. On June 27, 2017, Harrison prepared and delivered to Wigdor a letter in response to statements Wigdor published in the draft lawsuit. Harrison’s letter expressly stated how and why the statements made by Wigdor and Wheeler about Butowsky were false and utterly groundless. Harrison’s letter put Wigdor on actual notice of the truth, including the fact that there was no collusion with the President and that Wheeler himself had authorized the very quotations that Wigdor claimed that Butowsky and Fox had “fabricated”. Significantly, Harrison warned Wigdor that filing a lawsuit against Butowsky that contained the fabricated facts concerning collusion with the President and Fox would subject Wigdor to sanctions. Harrison emphasized to Wigdor:

Because the claim has neither a factual nor a legal basis, it is frivolous, and you are hereby put on notice that Mr. Butowsky intends to seek sanctions and counterclaims against Mr. Wheeler and your law firm if you file the complaint. Indeed, there can be no interpretation of the inflammatory allegations made against our client as having any other purpose but to intimidate and harass him into paying off Mr. Wheeler before they become public. Mr. Butowsky will not be extorted. He will seek all sanctions available to him under the law against Mr. Wheeler and your firm, including all attorney’s fees and costs associated with defending these illegitimate claims.

26. Wigdor’ misconduct was egregious. Wigdor intentionally ignored Harrison’s admonition and all the documentary evidence. Wigdor checked his common sense at the door and chose to manufacture a totally make-believe fake news story about Butowsky to further Wigdor’s war against Fox. Wigdor chose to attempt to extort Fox and Butowsky with threats to file the bogus lawsuit.

B. *Background – The Murder of Seth Rich*

27. In the early morning hours of July 10, 2016, a Democratic National Committee (“DNC”) staffer named Seth Rich (“Rich”) was shot twice in the back and badly beaten. Police arrived on the scene almost immediately, but Rich’s killers were already gone. The killers left no shell casings and no trace evidence. Rich later died in hospital. At about 4:19 a.m., the 27-year-old Rich spoke to his girlfriend, Kelsey Mulka (“Mulka”), over the phone as he walked home from a bar. As the couple talked, Mulka heard voices on the other end. Rich abruptly ended the call. He was steps away from his Washington D.C. apartment. <http://www.latimes.com/business/hollywood/la-fi-ct-seth-rich-conspiracy-20170523-htmlstory.html>]. “There had been a struggle. His hands were bruised, his knees are bruised, his face is bruised, and yet he had two shots to his back, and yet they never took anything,” Rich’s mother, Mary, told NBC shortly after his death.

<https://www.nbcwashington.com/news/local/Man-Shot-Killed-in-Northwest-DC-386316391.html>].²

28. There is no evidence that Rich’s death had anything to do with Russians or Russian hacking. [See, e.g., <http://www.newsweek.com/donna-brazile-book-seth-rich-russia-white-clinton-705424> (“the FBI said that they did not see any Russian fingerprints there”)].

² Seth Rich’s neighbor, Mark Mueller (“Mueller”), claims he heard sharp gun shots at 4:19 a.m., and saw the police tending to Seth Rich in the street. At a vigil days after Rich’s murder, Mueller made the following public statements: “I was there when he got shot, and they walked him past me, so I could see him and identify him as I knew him in the neighborhood. And the police officer said, ‘he didn’t even know he was shot’”. [see, e.g., <https://twitter.com/joshdcaplan/status/874321849701806081/video/1>; <http://www.thegatewaypundit.com/2017/06/alleged-eyewitness-seth-rich-murder-didnt-even-know-shot-video/>]. Wheeler never interviewed Mueller in connection with the murder investigation he undertook for the Rich family.

29. Starting on July 22, 2016 – twelve days after Rich’s death – WikiLeaks released over 44,053 emails and 17,761 attachments from top DNC officials – as part one of WikiLeaks’ “Hillary Leaks series”. [<https://wikileaks.org/dnc-emails/>].³

30. The founder of WikiLeaks, Julian Assange (“Assange”), told Ellen Ratner⁴ (“Ratner”) that the Hillary email leaks were not the result of Russian hacking. Rather, the leaks were from an “internal source” from within the Hillary Clinton campaign or from someone who knew Hillary Clinton, *i.e.*, Seth Rich. Assange told Ratner that “Russian got credit for something that WikiLeaks should have gotten credit for.” [<https://www.youtube.com/watch?v=0M3Z4eE6cJA>].

31. On August 9, 2016, Assange appeared on Dutch television. [<https://www.youtube.com/watch?v=Kp7FkLBRpKg>]. Assange was asked the following question, “The stuff you are sitting on. Is an October surprise in there?” Assange volunteered information about Seth Rich:

“ASSANGE: ... WikiLeaks never sits on material. Our whistleblowers go to significant efforts to get us material and often very significant risks. There was a 27-year old who works for the DNC. He was shot in the back, murdered just two weeks ago for unknown reasons as he was walking down the street in Washington.

DUTCH HOST: That was just a robbery I believe, wasn’t it?

ASSANGE: No, there is no finding.

³ Julian Assange confirmed that Russia was “absolutely not” involved in the leak of the DNC emails. [See *e.g.*, <https://www.youtube.com/watch?v=CuRJDKEVxHY> (Video at 1:34)].

⁴ Ellen Ratner is a journalist who has covered four U.S. Presidents. She serves as the Washington Bureau Chief for *Talk Media News*. On Fox, Ratner has appeared on *The Strategy Room* and *The Long and Short*. She is known for exposing bias in the media and chastising the mainstream press for its shortcomings. <http://ellenratner.com/about-ellen-ratner/>. Ellen Ratner is the sister of Julian Assange and WikiLeaks’ long-time US lawyer (now deceased), Michael Ratner.

DUTCH HOST: What are you suggesting?

ASSANGE: I am suggesting that our sources take risks and they become concerned to see things occurring like that.

DUTCH HOST: Was he one of your sources then? I mean...

ASSANGE: We don't comment on who our sources are.

DUTCH HOST: Then why make the suggestion about a young guy being shot in the streets of Washington?

ASSANGE: Because we have to understand how high the stakes are in the United States and our sources face serious risks. That's why they come to us so we can protect their anonymity.

DUTCH HOST: But its quite something to suggest a murder and that is basically what you are doing.

ASSANGE: Well others have suggested that. We are investigating to understand what happened in that situation with Seth Rich. I think it is a concerning situation. There isn't a conclusion yet. We wouldn't be willing to state a conclusion, but we are concerned about it. And more importantly [nearing tears] a variety of WikiLeaks sources are concerned when that kind of thing happens."

On August 10, 2016, WikiLeaks offered a \$20,000 reward for information leading to the arrest of the killers of Seth Rich. [www.telegraph.co.uk/news/2016/08/10/wikileaks-offers-20000-reward-over-murder-of-democrat-staffer-se/].

C. Wigdor Knew Butowsky Had Limited Involvement In Wheeler's Investigation

32. In early 2017, Butowsky contacted the family of Seth Rich to help the family investigate their son's unsolved murder. Butowsky graciously offered to pay for a private investigator. [<https://soundcloud.com/siriusxm-news-issues/ed-butowsky-seth-richs-death>]. Butowsky also donated \$250 to a GoFundMe campaign started by Rich's brother, Aaron Rich, to raise money, *inter alia*, to maintain and increase the reward for

information leading to an arrest and conviction of Rich's killer. [<https://www.gofundme.com/SethRich>].

33. On February 23, 2017, Butowsky contacted Wheeler via text message to see if Wheeler would be interested in investigating the murder. Butowsky did not know Wheeler, but had seen him on television. Wheeler appeared to be a competent investigator.

34. Wheeler entered into a contract with the Rich family (specifically, with Aaron Rich, Joel Rich and Mary Rich) to investigate the murder of Seth Rich. As Wheeler stated to FetchYourNews:

The Rich's were aware of my background as a criminal investigator, specifically as a former police homicide investigator. They indicated that they had seen my many appearances on the Fox News Channel commenting and analyzing dozens of criminal cases and have always been impressed by my knowledge and experience.

The Rich's engaged my services to assist with gathering information and evidence, in an effort to try to assist the Metropolitan Police Department identify the person(s) responsible for the murder of Seth.

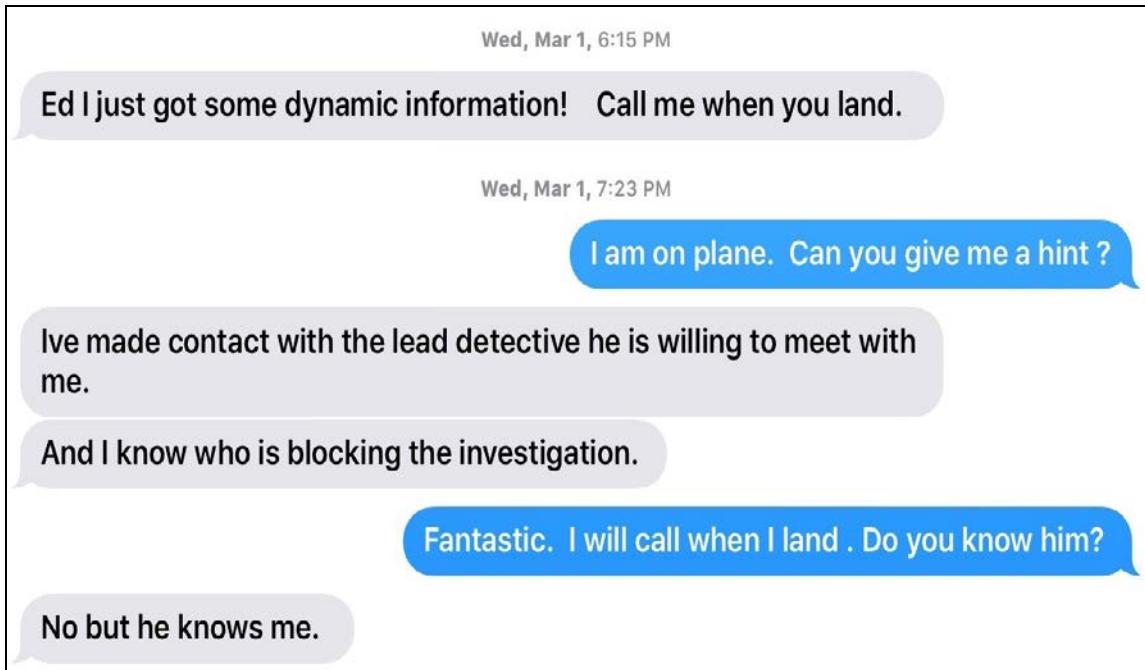
[<http://fetchyournews.com/tag/rod-wheeler/>]. Butowsky is not a party to the contract and has never seen the contract.

35. Butowsky did not participate in Wheeler's investigation and had very little communication with Wheeler.

36. Wheeler confirmed Butowsky's limited involvement in the investigation. Wheeler represented to Sean Hannity on May 16, 2017 that "I was hired by the family, Joel and Mary Rich. They signed the contract. Now, the financial benefit if there were any financial benefit and by the way there wasn't much, that was actually paid for by a **third party that I have had very little communication with at all, Sean**".

[<https://www.youtube.com/watch?v=CuRJDKEVxHY> (emphasis added)].

37. On March 1, 2017, Wheeler told Butowsky that he (Wheeler) had independently acquired some “dynamic information” from one of his sources, the “lead detective” on the Seth Rich murder case. Wheeler also claimed that he had learned and knew who was “blocking the investigation”. Wheeler texted Butowsky as follows:



Wheeler told Butowsky that he was meeting with “2 inside contacts” on March 2, 2017.

38. On March 31, 2017, Wheeler appeared on television on Fox 5 DC. Wheeler uploaded and published the interview to his YouTube channel, *Rod Wheeler*. [<https://www.youtube.com/user/4apryl>]. He called the video “Fox 5 DC Seth Rich Death Rod Interview”. [https://www.youtube.com/watch?v=D_nsLuFyb60].

39. In this interview, Wheeler announced that the Rich family had engaged him to help the police look into the murder because, according to Wheeler, “they [the Rich family] really just don’t have a clue”. Wheeler said he had been investigating the matter over the “past three weeks”.

“[T]here has been a lot of reward money that’s been offered for any information. No one has come forward. So here is the thing that is so important to realize whenever you have a lot of reward money, in this case it is over \$125,000, and you don’t have anyone coming forward with information. Then what that tells you as an investigator is that maybe you need to start looking at another cause or another reason as to why this guy was killed and that’s what we’re doing now. We’re looking at uh possibly of course a street robbery, but it could, and I underline the word could, it could have been related, his death to his job, it could have been related to something else. **what I don’t think it was related to though Allison is this Russian hacking thing.”**

(Emphasis added). After the interviewer pointed out to Wheeler that people were “hinting at the fact that perhaps Seth Rich may have given some documents [to WikiLeaks]”, Wheeler, voluntarily and of his own free will, stated as follows:

“Well a lot of people have made that same observation and you have to ask yourself what is the motivation behind a person wanting to get involved and offer reward money, maybe he’s just a good guy and he has a lot of money laying around so this how he wants to spend his money, but you have to be careful though when you start throwing out these conspiracy theories, they actually don’t help the investigation at all … **I haven’t found one shred of evidence at all that indicates that Seth’s death is the result of any Russian hacking or anything like that.** I do think it’s possible and I underline the word possible that it could have been related to his job to some degree or relationships with the job, don’t know that for sure but for investigators we have to go down every path until we can determine who was responsible for his death”.

(Emphasis added).

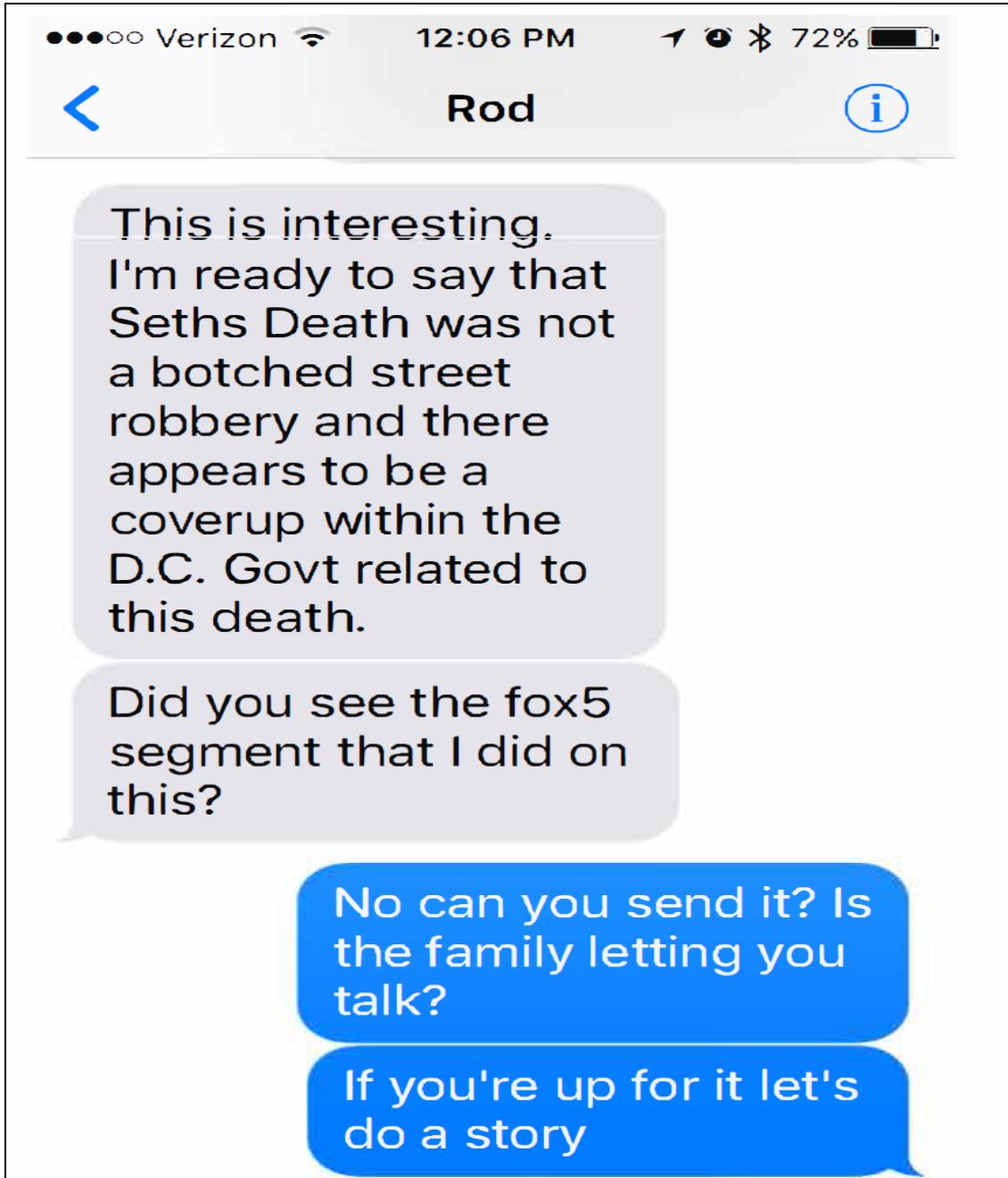
40. Malia Zimmerman (“Zimmerman”) is an award-winning investigative reporter employed by FoxNews.com. Her reports for Fox largely deal with crime, terrorism in the U.S. and overseas, homeland security, illegal immigration, and political corruption. [<http://www.foxnews.com/person/z/malia-zimmerman.html>].

41. Wheeler met Zimmerman in late February 2017.

42. After he appeared on Fox 5 DC, Wheeler updated Zimmerman concerning his investigation.

43. Specifically, Wheeler advised Zimmerman that as a result of his investigation he (Wheeler) was prepared to say that Rich's murder was not the result of a "botched street robbery". Wheeler further offered to Zimmerman that his investigation revealed a "coverup within the D.C. Govt" related to Rich's death.

44. Wheeler and Zimmerman's exchanged text messages:



45. Despite actual knowledge that Butowsky had little communication with Wheeler and no role in the murder investigation, Wigdor and Wheeler misrepresented that Butowsky was heavily involved and fed Wheeler information.

D. Wigdor Knew The President Was NOT Involved In Anything

46. On April 18, 2017, Butowsky sent Wheeler a text message, inquiring whether Wheeler would be in DC on Thursday, April 20. Butowsky planned to meet with White House Press Secretary, Sean Spicer (“Spicer”).

47. Wheeler had been asking Butowsky nonstop to get him an interview, so he (Wheeler) could get a job in the White House.⁵ Butowsky asked Wheeler to put together a summary of his findings to date, and to bring the report with him to the meeting. Butowsky emailed Spicer, and asked for a 10-minute meeting, with no specified topic, to catch up. Butowsky informed Spicer that he would be bringing a Fox News contributor to the meeting.

48. The meeting with Spicer lasted 10-15 minutes. Most of the time was spent talking about shirts. Butowsky and Spicer bought their shirts from the same source: Jacomo Hakim’s Bookatailor. At the meeting, Butowsky and Wheeler, *inter alia*, told Spicer that they were working on a story about Seth Rich and wanted Spicer to be aware of it – that was it.

⁵ See, e.g., <https://www.youtube.com/watch?v=NaNhtlS2GxE> (recording of phone call in which Wheeler expresses a desire to be employed by the White House – Wheeler states: “the President can appoint me as an administrator to the President ... to specifically report to him and start taking a look at all of these cases. He can do it. Because someone needs to reign this stuff in and Trump is the person to do it ... Whether you like Obama or not, for eight years I think this corruption has been allowed to manifest. Now we got a new President in there and they can’t be as corrupt as they used to be, and that’s messing with people’s minds.”).

49. The President of the United States was not at the meeting and Spicer did not inform the President about the meeting.

50. Wigdor has never had any evidence of any connection between Butowsky and the President because there is no connection whatsoever. In the total absence of any evidence, Wigdor chose to fabricate facts. Wheeler advised Wigdor that he (Wheeler) had no evidence of any collusion between Butowsky and the President. In spite of Wheeler's admission and acknowledgment, Wigdor chose to manufacture a fake narrative that included, *inter alia*, "collusion" between Butowsky and the President.

E. Wigdor Knew Wheeler Interviewed Lead DC Detective Dellacamera

51. On April 25, 2017, Wheeler interviewed Detective Joseph Dellacamera, the lead DC Detective investigating the murder of Seth Rich.

52. Wheeler's notes of the interview state as follows:

When asked specifically was there any information located on any of Seth's computers that would indicate that he did in fact send emails to WikiLeaks, DellaCamera replied, "there is certain information that I can't provide regarding the case itself, and I hope you understand, like I said, I can't reveal detailed information about the case itself." "I have strict, strict rules by my bosses, because of what this case is, that says don't provide information out, other than what is already publicly out there. I just can't go into detail with what I know." At this time DellaCamera was asked is it a possibility that emails were found on Seth's computer related to the DNC and this could be a motivation for his being killed? DellaCamera replied, "anything's possible; I can't say one way or the other....."

DellaCamera was told that the family were told by me (Wheeler) that regardless of whatever direction the investigation goes, we need to solve the murder, identify the bad guy and get him off the street. So, in keeping with that spirit, I need to “rule out” the possibility that Seth’s death could have been related to his job at the DNC. I (wheeler) haven’t been able to rule out that someone from the DNC could have been responsible for Seth’s death. DellaCamera was asked, “were you aware that Seth was having problems with two supervisors at his job (DNC) and he was very emotionally upset because of his problems at the DNC? DellaCamera replied, “I was aware that there were problems, but I don’t know who the supervisors were that he was having problems with.” Next, DellaCamera was asked if he was aware that Seth received money from WikiLeaks in exchange for the emails? Did you look into his (Seth’s) financial records? DellaCamera replied, “again, I can’t go into details with specifics about the case such as that...I really can’t. Nothing against you, Rod but I’m just not trying to get myself jammed up.” DellaCamera was asked, “so the higher-ups in the department are very aware of this case?” He replied, “Oh yeah, for sure.”

I asked once again about the email records. I informed DellaCamera that we need to “disprove” the theory that Seth was killed because of this job at the DNC. DellaCamera stated, “honestly, put it this way, if Seth worked anywhere else other than the DNC, nobody would give a shit about his death. The only reason there is such interest is because of where he worked.” DellaCamera was asked, “so why is that?” He replied, “again, it goes back to the DNC...a political organization and it all started stemming from around the time of the election..and it sounds like someone was trying to ruffle feathers...I mean that’s what I think.”

Anything’s possible.” “Look, look Rod, please, please do not quote me on anything.....I don’t need that shit coming back on me..if I’m quoted, I will probably be reassigned to CCB somewhere.....moving property around. There’s certain details of the case that we just can’t renewal to anybody, just for the integrity of the case. But, do what you got to do for your business and the news story, but please don’t, don’t throw me under the bus Rod.”

Then Wheeler asked, “did your review of Seth’s computer reveal that any emails went out to WikiLeaks?” DellaCamera replied, (after a long pause), well, well...there’s stuff on there that, it’s its, emails are sent everyday....um...the context of the emails I can’t get into the details, um, again, I don’t have anything pointing the finger at the DNC other than the conspiracy theories. Nobody has come to me with direct information and provided detailed information about the DNC being involved somehow.

F. Wigdor Knew About Marina Marraco

53. On May 11, 2017, Zimmerman sent Wheeler a rough draft of a story regarding the Seth Rich murder.

54. In the interim between February and May 2017, Butowsky got to know Wheeler and developed a bond with the “private investigator”. Butowsky knew that

Wheeler really wanted to work at the White House. On May 14, 2017, Butowsky sent Wheeler a text message in which Butowsky joked that “[n]ot to add any more pressure but the president [Donald Trump] just read the [Zimmerman’s] article. He wants the article out immediately. It’s now all up to you. But don’t feel the pressure”. Wheeler knew Butowsky was joking.

55. Wheeler had a crush on Fox 5 DC correspondent, Marina Marraco (“Marraco”). Wheeler called Marraco. He gave Marraco a copy of the draft of Zimmerman’s article.

56. On May 15, 2017, Marraco interviewed Wheeler concerning his investigation of Seth Rich’s murder and his findings to date as part of a Fox 5 DC “exclusive”. [<https://www.youtube.com/watch?v=x48PeHvTddc>]. Wheeler made the following unqualified statements on camera to Marraco:

“MARINA MARROCO: Today Fox 5 has learned there is new information that could prove these theorists right. New information from the family’s private investigator suggests there is tangible evidence on Seth Rich’s laptop that confirms he was communicating with WikiLeaks prior to his death. Now the question is why has DC police as the lead agency on the investigation for the past 10 months insisted this was a botched robbery when until this day there is no evidence to suggest that. The Rich family hired Rod Wheeler a former MPD homicide detective to run a parallel investigation into their son’s death. Wheeler says he believes there is a cover up and the police department has been told to back down from the investigation.

WHEELER: Neither the police department nor the FBI have been forthcoming. They haven’t been cooperating at all. I believe that the answer to solving his death lies on that computer, which I believe is either at the police department or at the FBI. I’ve been told both.⁶

MARINA MARRACO: But you have sources at the FBI saying that there is information ...

⁶ Actually, Wheeler had been told that Aaron Rich had the computer. [<https://twitter.com/wikileaks/status/892494677823434753?lang=en>].

WHEELER: **For sure ...**

MARINA MARRACO: **That could link Seth Rich to WikiLeaks?**

WHEELER: **Absolutely, yeah, and that's confirmed.** Actually,

I have a source in the police department that has looked at me straight in the eye and said 'Rod we were told to stand down in this case and I can't share any information with you'. Now that is highly unusual for a murder investigation, especially from a police department. Again, I don't think it comes from the Chief's office, but I do believe there is a correlation between the Mayor's office and the DNC, and **that's the information that is going to come out tomorrow.**"

(Emphasis added). When asked by a Fox 5 DC anchor whether there would be "evidence" to prove the statements made by Wheeler, Marraco stated as follows:

"**MARINA MARRACO:** ... Rod Wheeler, the investigator, assures us Fox 5 and assures Fox News that there's a full report that contains information that will show how many times Seth Rich made contact with WikiLeaks and will show exactly when this communication took place."⁷

G. Wigdor and Wheeler Knew That Fox Had Accurately Quoted Wheeler – Yet, In Spite Of That Knowledge, They Represented That Wheeler Had Been Misquoted By Zimmerman In The Fox News Article Published on May 16

57. On May 15, 2017, Wheeler was in contact with Zimmerman multiple times about the article Zimmerman was writing for Fox News.

1. The First Email

58. At 1:20 p.m. on May 15, 2017, Zimmerman emailed Wheeler a "current draft" of the article:

From: Malia Zimmerman <maliamzimmerman@gmail.com>

Date: Mon, May 15, 2017 at 1:20 PM

Subject: small changes included - current draft

To: Rod Wheeler <rod@rodwheeler.com>

⁷ In an audio recording published on YouTube on July 12, 2017, Wheeler claimed that Marraco had tricked him, that she took things out of context, that she did not "play" the whole tape of the interview, that he (Wheeler) did not know he was being recorded. [<https://www.youtube.com/watch?v=2p8at6PD4L8>].

59. Wheeler received Zimmerman's email.

60. Zimmerman's May 15 "current draft" contained the following words:

Rod Wheeler, a former DC Homicide police detective who now runs a private detective firm and was hired to investigate Rich's murder, said he too uncovered substantial evidence and information that led him to believe the connection between Rich and WikiLeaks.

61. Zimmerman's May 15 "current draft" attributed the following quotes to Wheeler:

"My investigation up to this point shows there was some degree of email exchange between Seth Rich and WikiLeaks," said Wheeler, who also is a Fox News contributor.

"My investigation shows someone within the DC government, Democratic National Committee or Clinton team, is blocking the murder investigation from going forward," Wheeler said. "That is unfortunately. Seth Rich's murder is unsolved as a result of that."

62. Wheeler did not deny the quotes or object to anything Zimmerman had written in the "current draft".

63. Wheeler was actively involved in supplying information to Zimmerman. Far from denying anything in the May 15 "current draft", Wheeler offered Zimmerman further quotes, including the following:

Here is another quote you may want to consider using "I sincerely believe that there is an underground culture of corruption that exist within the confines of the nations capital that includes quite possibly the crime of murder. It's time that the FBI immediately conduct a full and thorough investigation to not only the death and who caused the

death of Seth rich but those that he was involved with and others regarding the Democratic national committee."

64. Wheeler did not inform Zimmerman that any of his quotes were inaccurate in any way.

65. If he had objected to anything Zimmerman wrote, Wheeler had a duty to be truthful. In good conscience, Wheeler should have informed Zimmerman of any inaccuracies.

66. Wheeler knew Zimmerman and Fox were relying on Wheeler to be truthful and honest. The quotes were either accurate or Wheeler was defrauding Zimmerman and Fox by his silence.

2. The Second Email

67. At 3:59 p.m. on May 15, 2017, Zimmerman emailed Wheeler a revised draft of the article.

68. The subject line of Zimmerman's 3:59 p.m. email expressly advised and instructed Wheeler to "please read carefully" (emphasis added):

From:	Malia Zimmerman <maliamzimmerman@gmail.com>
Sent:	Monday, May 15, 2017 3:59 PM
To:	Ed Butowsky; Rod Wheeler
Subject:	please read carefully

69. The revised 3:59 p.m. draft of Zimmerman's article made the following statement about Wheeler:

Rod Wheeler, a retired DC Homicide police detective who now runs a private detective firm and was hired to investigate Rich's murder, said he too uncovered evidence that confirms the connection between Rich and WikiLeaks.

70. The revised 3:59 p.m. draft of Zimmerman's article contained the following quotes attributed to Wheeler:

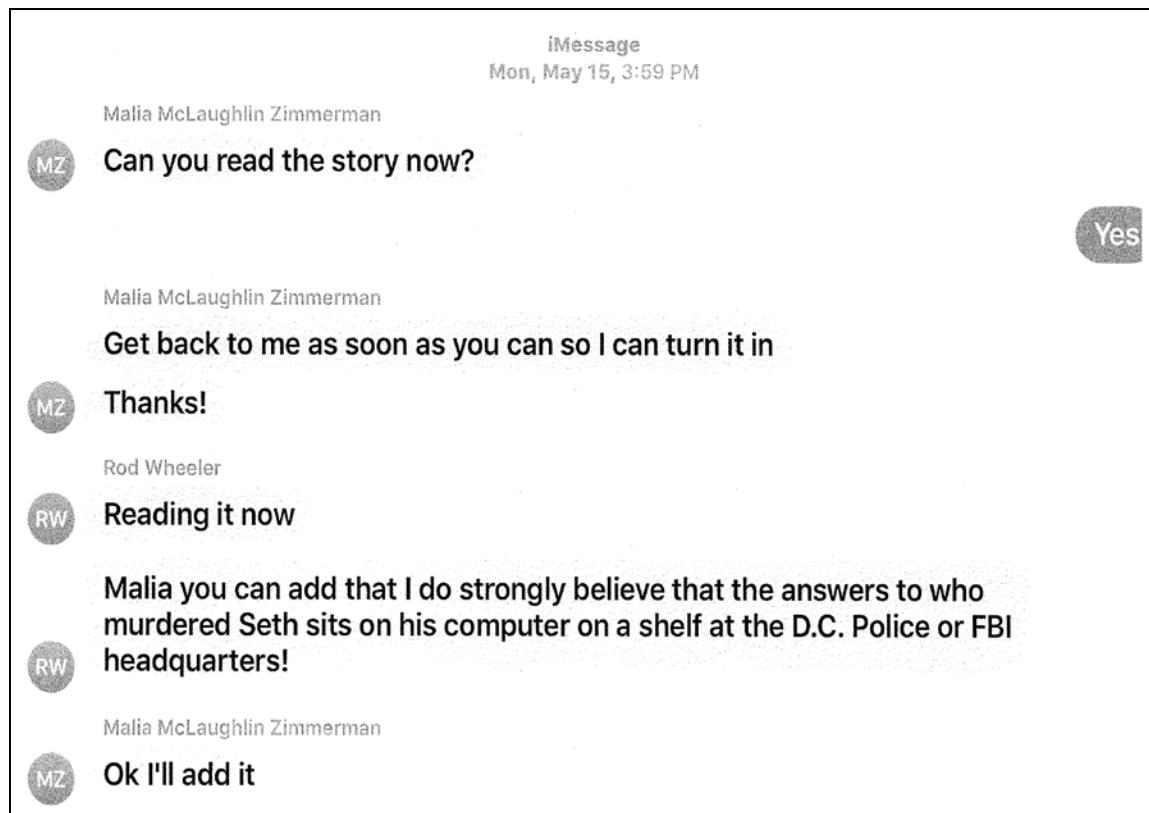
"My investigation up to this point shows there was some degree of email exchange between Seth Rich and WikiLeaks," said Wheeler, who also is a Fox News contributor.
--

"My investigation also shows someone within the DC government, Democratic National Committee or Clinton team, is blocking the murder investigation from going forward," Wheeler said. "That is unfortunately. Seth Rich's murder is unsolved as a result of that."
--

71. After sending her email with the revised article, Zimmerman texted Wheeler via iMessage to confirm that he had received the revised article and that he could read it.

72. Wheeler confirmed that he had received Zimmerman's email and that he had read the revised article.

73. Far from denying any quotes attributed to him **WHEELER OFFERED ZIMMERMAN FURTHER QUOTATIONS!!!:**



74. At no point in time did Wheeler ever deny making the statements quoted by Zimmerman. In fact, when Zimmerman asked Wheeler if she could use the quotes, Wheeler responded as follows:

Ok this is great. Can I use as quotes too?

Yes.

75. Wheeler never hesitated, never equivocated, never prevaricated, and never denied the quotes.

76. Wheeler never attempted to correct, amend, clarify, or retract the quotes.

3. **The Third Email**

77. At 4:47 p.m. on May 15, 2017, Zimmerman sent Wheeler a *third* email that included the final draft of the article. Zimmerman's email specifically advised Wheeler that the draft had been "turned in" to her editors:

From: Malia Zimmerman <maliamzimmerman@gmail.com>
Sent: Monday, May 15, 2017 4:47 PM
To: Rod Wheeler; Ed Butowsky
Subject: draft turned in

78. This was Wheeler's third and final chance to deny the quotes.

79. Wheeler made no attempt to stop the presses.

80. The final draft of Zimmerman's article, emailed to Wheeler at 4:47 p.m. on May 15, 2017, contained the following quotes attributed to Wheeler:

"My investigation up to this point shows there was some degree of email exchange between Seth Rich and WikiLeaks," said Wheeler, who was hired to investigate Rich's murder. "I do believe that the answers to who murdered Seth Rich sits on his computer on a shelf at the DC police or FBI headquarters."

“My investigation shows someone within the DC government, Democratic National Committee or Clinton team is blocking the murder investigation from going forward,” Wheeler said. “That is unfortunately. Seth Rich’s murder is unsolved as a result of that.”

81. In addition to the emails and text message exchanges, Wheeler confirmed verbally to Zimmerman that the article accurately quoted him, and Wheeler expressed his support for the story. These statements occurred on conference calls several days before publication of Zimmerman’s story, including telephone conversations that took place on May 10, 2017 (10:30 am), May 11, 2017 (9:52 am and 10:12 am), and May 15, 2017 (11:22 am and 1:13 am).

82. Wheeler also confirmed verbally to Butowsky that he had independently formed the belief, before publication, that there were email communications between Seth Rich and WikiLeaks.

83. Prior to publishing false and defamatory statements about Butowsky, Wigdor knew about Wheeler’s text messages and his email communications with Zimmerman on May 15, 2017 because he had received copies from Wheeler.

84. In his blind desire to extort money from Fox, Wigdor intentionally and maliciously disregarded the very record before him. Instead, disregarding even the advice of his own client, Wigdor fabricated a story that Butowsky colluded with the President, Spicer, Fox, Zimmerman and others to publish fake news about Seth Rich to distract from the “real” story – Russian collusion. Wigdor thought that his false narrative would put so much pressure on Fox that Fox would settle the Wigdor Discrimination Suits (defined below) and pay Wigdor \$60,000,000.00.

H. Wigdor Knew About Wheeler's Representations To Hannity and Dobbs

85. On May 16, 2017, in the early morning, Fox published Zimmerman's story entitled, "Seth Rich, slain DNC staffer, had contact with WikiLeaks, say multiple sources". The article included the quotes that Wheeler had approved. [<http://web.archive.org/web/20170516133954/http://www.foxnews.com/politics/2017/05/16/slain-dnc-staffer-had-contact-with-wikileaks-investigator-says.html>].

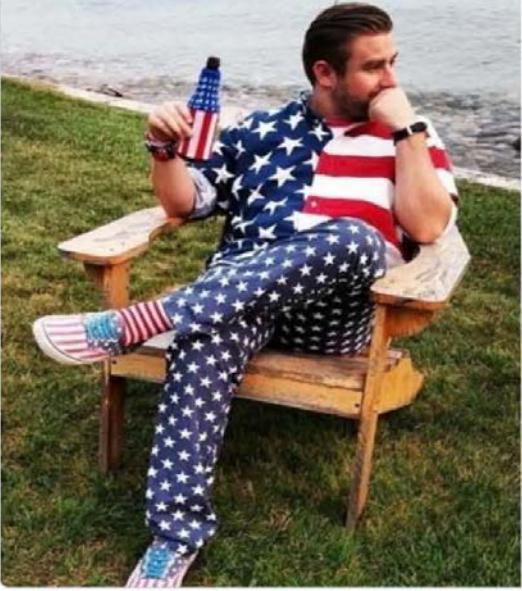
86. Fox News tweeted Zimmerman's story to its 16 Million followers:



FOX NEWS channel

Fox News 
@FoxNews

Slain DNC staffer had contact with WikiLeaks, investigator says fxn.ws/2qml5YS



3:55 AM · May 16, 2017

1,464 Retweets 1,999 Likes

87. On May 16, 2017 – **after publication of Zimmerman's article** – Wheeler appeared on Fox News and was interviewed by Sean Hannity (“Hannity”). [<https://www.youtube.com/watch?v=CuRJDKEVxHY>].

88. Wheeler once again expressly confirmed that Seth Rich had communicated with WikiLeaks:

“HANNITY: The timeline is fascinating here. As I played in the last segment, Julian Assange I asked him repeatedly on radio and television if Russia was involved, absolutely not. Now believe him or not, he’s the guy at WikiLeaks who has an 11-year history of never being proven wrong ... I guess my question is when you look at the timeline of this, and 12 days after he was killed it shows up on WikiLeaks, what did you discover in terms of the contacts with WikiLeaks?

WHEELER: Right, well that is an excellent question and let me clear that up right now exactly what it was that I found. Now I have never seen the emails myself directly I haven’t even seen the computer that Seth Rich used. Here is the problem with all of this: I don’t even know where the computer is. I checked with the police department. They said they don’t know where the computer is and the FBI they say they don’t have the computer. Now, where did this information come from in terms of knowing or believing, I should say, that Seth Rich could have been in communications with WikiLeaks. There was a federal investigator that was involved on the inside of the case, a person that is very credible. And I’ll tell you, let me just say this Sean, I don’t like to suggest things without saying the person’s name, but I can’t say that person’s name because that person would be thrown under the bus. And I can’t do that, but **this person we checked him out, we had to check him out, very credible. He said he laid eyes on the computer, and he laid eyes on the case file, and he came across very credible. When you look at that with the totality of everything else I’ve found in this case, it’s very consistent for a person with my experience to begin to think well perhaps there were some email communications between Seth and WikiLeaks. Everytime I talk to the police department though Sean, everytime I talk to the police department about the WikiLeaks or the emails, it’s automatically shut down. That discussion is automatically shut down.**

...

(Emphasis added). Wheeler never once informed Hannity that Butowsky, Zimmerman or Fox had misquoted him. Wheeler never claimed that Fox, with Butowsky’s support, had

“fabricated” quotes or that the Zimmerman article was “fake news”. Wheeler went on to tell Hannity that:

“[i]f this is just a murder investigation, first of all why would the FBI be involved? The only reason the FBI would be involved just so that the viewers understand is if this has some degree of national exposure, meaning because maybe it is related to the DNC. We don’t know that. We don’t know that for sure. It could have been a botched robbery, but my point is this Sean and I’ve been investigating murders for a while you have to look at every possibility you can’t just look at one thing say well that has to be it ... But here is the thing, and this is so important, there has been a \$125,000 reward out for information pertaining to the death of Seth Rich. Not one person has come forward. Here is one other thing that is going to be startling and I’m just going to say this right now. I reached out to the police department way back in March when the family first hired me right to get involved. I didn’t hear anything from the police department for 2-3 days. Guess what I leaned yesterday [May 15, 2017] from the family of Seth Rich? The police department did not call me back because someone, a high-ranking official at the DNC, check this out, a high-ranking official at the DNC, when I called the police department. They got that information and called the Rich family wanting to know why was I snooping around?

...

I don’t know for sure. **I don’t know as a matter of fact if the emails went out to the WikiLeaks or anybody else, but it sure appears that way.**”

(Emphasis added). Prior to June 27, 2017, Wigdor knew all about Wheeler’s appearance on Hannity, just like he knew about Wheeler’s appearances on Fox 5 DC and his on-air statements to Marraco, and the admissions in Wheeler’s extensive text and email communications with Zimmerman. Wigdor knew that Wheeler – who held himself out as a seasoned DC homicide investigator – confidently opined that it “sure appears” there were email communications between Seth Rich and WikiLeaks.

89. Wigdor also knew that Wheeler had disclosed to Zimmerman what the Rich family had said. In text messages on May 15, 2017, Wheeler expressly advised Zimmerman as follows:

“Joel [Rich] said that when I called the police department, right after that Donna Brazile called him and was asking him why I was snooping around asking questions about death of Seth and his working relationships at the DNC. **I was startled to learn that Donna Brazile even knew that I reached out to the police department.** So basically, when I called the police department that information was automatically given to Donna Brazile and she called Joel wanting to know why I was inquiring about Seth relationships at the DNC. **As a police investigator that automatically makes me think that Donna Brazile is in a category of persons of interest as it relates to the death of Seth Rich.** I also spoke with another source who informed me that not only was Donna Brazile snooping around wanting to know what I was learning with regards to the DNC and Seth Rich, but also **I was told that Debbie Wasserman Schultz was snooping around wanting to know how much it was I [sic] learning.”**

“I just read the email you sent. **Joel [Rich] informed me that Donna Brazile called him not the police department asking why I was snooping around.** My question is how did she know I called the detective so quick.”

(Emphasis added).

90. On May 16, 2017, in addition to Hannity, Wheeler appeared on Fox Business with Lou Dobbs (“Dobbs”) to discuss the Seth Rich murder investigation. [<https://www.youtube.com/watch?v=2tqckO7bBjk>]. Dobbs asked Wheeler about “this federal investigator, we’re in an unusual situation, an FBI forensic report showing 44,000 emails 18,000 attachments, that approximates just about what was released by WikiLeaks ... do you think that is a coincidence?” Wheeler replied without hesitation,

“WHEELER: No, I actually don’t think it’s a coincidence... his information that he shared with Fox News is pretty consistent with everything else I’ve been learning including the fact that right now no one seems to know where the computers are that belonged to Seth Rich, the computers obviously were confiscated at some point.”

When Dobbs asked about the claim that DC detectives were told to “stand down”, Wheeler stated:

WHEELER: And that is a claim I actually heard myself from a detective, who said 'Rod we were told not to investigate this fully'. Now see that's interesting because that is consistent with what this federal investigator said. The federal investigator never knew Lou, that I had heard from a detective in the police department to stand down. Well if this guy says the same thing, you have to start saying to yourself well maybe there is some truth behind this. So, that's why I think when you look at the totality of everything we have right now it is very consistent with what this federal investigator has said.

...

We also don't have body cameras that I know police officers were wearing on the scene the night in which Seth was killed. That's a problem because we know for a fact those officers had on body cameras. No one knows where the video is. I think we are going to have to continue to look at this case and hope more will come out as time goes by Lou."

91. No one made Wheeler talk to Fox 5 DC correspondent, Marina Marraco.
92. No one made Wheeler confirm the accuracy of his quotations to Zimmerman ... three (3) times.
93. No one made Wheeler go on Hannity or Dobbs.⁸

⁸ As was well-known to Wigdor prior to publication of the false and defamatory statements at issue in this action, Wheeler made repeated positive statements to multiple people, and then, in less than 48 hours, claimed that his own statements were fabricated. Wheeler did a colossal flip-flop. **It was obvious to everyone that Wheeler was an incredible, unbelievable and unreliable source, whose veracity was seriously in question.** Blake Hounshell, POLITICO Magazine's Editor-in-Chief, observed:



Blake Hounshell 
@blakehounshell

The puzzling thing about Rod Wheeler is that he went on Lou Dobbs and Sean Hannity and said more or less what he's alleging was made up.

9:20 AM · Aug 1, 2017

62 Retweets 138 Likes

I. Wigdor Knew That Wheeler Had A Strong Motive To Lie

94. On May 16 or May 17, 2017, one or more members of Seth Rich's family or a spokesman for the Rich family threatened to sue Wheeler for violating the terms of his contract by speaking with Marraco, Zimmerman, Hannity and Dobbs. [See <https://www.nbcnews.com/politics/justice-department/slain-dnc-staffer-s-family-orders-blabbing-detective-cease-desist-n762211>].

95. Counsel for the Rich family, Joseph A. Ingrisano, Esquire, of Kutak Rock, notified Wheeler that his "statements and actions have caused, and continue to cause, the [Rich] Family severe mental anguish and emotional distress. Your behavior appears to have been deliberate, intentional, outrageous, and in patent disregard of the Agreement and the obvious damage and suffering it would cause the Family." Ingrisano further advised Wheeler that his "improper and unauthorized statements, many of which are false and have no basis in fact, have also injured the memory and reputation of Seth Rich and have defamed and injured the reputation and standing of the members of the Family".

96. Rich family spokesman, Brad Bauman ("Bauman"), also issued a public statement. Bauman emphasized that "[a]nyone who continues to push this fake news story after it was so thoroughly debunked is proving to the world they have a transparent political agenda or are a sociopath". "In either case, they should be taken off the air because they are either blind to the damage they are doing to a murder victim's family or don't care, showing a profound lack of judgement and common decency." [\[http://www.chicagotribune.com/news/nationworld/ct-seth-rich-slaying-conspiracy-20170520-story.html\]](http://www.chicagotribune.com/news/nationworld/ct-seth-rich-slaying-conspiracy-20170520-story.html); <https://www.thedailybeast.com/the-big-money-pr-war-over-seth-richs-death>].

97. The threats from the Rich family and Bauman provided Wheeler with a strong motive, self-interest and reason to backtrack and to distance himself from the quotes and statements he had made to Marraco, Zimmerman, Hannity and Dobbs.

98. Wigdor knew that Wheeler's liability to the Rich family provided Wheeler with a motive to lie about Butowsky, Zimmerman and Fox.

99. Wigdor also knew that there was significant conflict between Wheeler and Aaron Rich. Wigdor knew that in a YouTube video recording (published July 12, 2017) Wheeler had accused Aaron Rich of obstructing the murder investigation by prohibiting Wheeler from making any inquiries about the "emails" on Seth Rich's computer. [\[https://www.youtube.com/watch?v=2p8at6PD4L8\]](https://www.youtube.com/watch?v=2p8at6PD4L8); <https://bigleaguepolitics.com/audio-rod-wheeler-explains-fox-news-fiasco-claims-brother-blocked-wikileaks-inquiries/>.

BigLeaguePolitics.com summarized the audio tape of Wheeler's accusations of obstruction as follows:

Wheeler said that brother Aaron Rich tried to block Wheeler from looking at Seth's computer, even though there could be evidence on it. "He said no, he said I have his computer, meaning him," Wheeler said. "I said, well can I look at it?...He said, what are you looking for? I said anything that could indicate if Seth was having problems with someone. He said no, I already checked it. Don't worry about it."

Wheeler said that Seth's girlfriend told him that Aaron Rich had possession of Seth's cell phones, but Aaron denied it and said "we're not going to worry about the cell phones."

Aaron also blocked Wheeler from finding out about who was at a party Seth attended the night of the murder.

"All I want you to do is work on the botched robbery theory and that's it," Aaron told Wheeler, according to Wheeler's claim on the audio. Wheeler said that Seth's father Joel "does not appear to have any hidden agenda."

Aaron Rich's obstruction and refusal to permit Wheeler to investigate Seth Rich's emails caused Wheeler to conclude that there were, in fact, email communications between Seth Rich and WikiLeaks. Wheeler stated point blank, "**with everybody pushing back on this email thing in the family and they're so protective of the email, it leads me to think that perhaps there were some communications between Seth Rich and WikiLeaks.**"

(Emphasis added).⁹ Wheeler confirmed that he recorded all of this in a "report", which Wheeler characterized as a "running resume" consisting of notes of "every discussion".

100. The conflict between Wheeler and Aaron Rich and Wheeler's statements about the Seth Rich email communications with WikiLeaks should have caused Wigdor to seriously question Wheeler's veracity. In light of the audio recording and Wheeler's "report", how could Wheeler deny the connection between Seth Rich and WikiLeaks? However, Wigdor had a predetermined agenda – to extort money from Fox with a fabricated story about Butowsky colluding with the President. The truth – that Seth Rich was in communication with WikiLeaks – cut the legs out from under Wigdor's false narrative. Wigdor was determined to squelch the truth.

J. Wigdor Knew That Wheeler Back-Tracked 100% and Could NOT Be Trusted

101. In an article published on May 17, 2017 at 12:42 a.m., BuzzFeed News quoted Wheeler as follows:

"That story on Fox 5 last night was inaccurate," said Wheeler, a former DC homicide detective. "I don't even know where the computers are."

⁹ Wheeler's representations in the audio recording published in July 2017 are identical to the representations he made to Zimmerman. Wheeler told Zimmerman that there was "some degree of email exchange between Seth Rich and WikiLeaks".

https://www.buzzfeed.com/claudiakoerner/the-private-detective-who-ignited-a-clinton-conspiracy?utm_term=.cmYQ8ZrbEz#.xr04N76J3z].

102. On May 17, 2017 at 11:32 p.m., Fox 5 DC published an editor's note. The note emphasized that what Wheeler told Fox 5 DC on camera on Monday, May 15, 2017 regarding Seth Rich's murder investigation is in "clear contrast" to his representations "over the last 48 hours". Fox 5 DC pointed out that Wheeler "backtracked" completely on his assurances to Fox 5 DC and Fox News. After Wheeler backtracked, Fox 5 DC attempted incessantly to communicate with him, but he did not return calls or emails. On May 17, 2017, "just before our newscast, Wheeler responded to our requests via a telephone conversation, where he now backtracks his position and Wheeler characterizes his on-the-record and on-camera statements as 'miscommunication.'"

[<http://www.fox5dc.com/news/local-news/private-investigator-there-is-evidence-seth-rich-contacted-wikileaks-prior-to-death>].¹⁰

K. Wigdor Knew About Wheeler's Statement to FetchYourNews

103. After May 17, 2017, Wheeler continued to publish statements that should have caused Wigdor to doubt Wheeler's veracity. Wigdor never once doubted Wheeler because Wigdor did not care whether Wheeler was telling the truth. Wigdor disregarded the truth because Wigdor intended to fabricate and publish a story about collusion with the President and "fake news". Wigdor swept Butowsky up into the false narrative.

¹⁰ Wigdor had every reason to doubt Wheeler's veracity. Wheeler's backtracking and lies were a matter of public record. Wigdor intentionally and recklessly disregarded the truth when he deliberately republished Wheeler's false and defamatory statements about Butowsky and Fox. Wigdor advocated the false narrative out of a calculated desire to extort a \$60,000,000.00 settlement out of Fox.

104. On May 22, 2017, Wheeler released a statement concerning the death of Seth Rich that was published by Brian K. Pritchard, FetchYourNews.com. [<http://fetchyournews.com/tag/rod-wheeler/>]:

Detective Rod Wheeler releases statement concerning the Death of DNC staffer Seth Rich

FEATURED, NEWS — *May 22, 2017, by Brian K. Pritchard*



Former Homicide D.C. Detective Rod Wheeler has released the following statement concerning the death of former DNC staffer Seth Rich. Wheeler, “I am still of the personal opinion that his murder may be tied to his employment.”

105. In his written statement published by FetchYourNews, Wheeler publicly represented that Zimmerman’s article was “essentially correct” and worthy of further investigation”. (Emphasis added).¹¹ Wheeler’s own statement reads:

¹¹ Despite Wheeler’s own words that the Fox News article was “essentially correct”, Wigdor and Wheeler claimed that on May 16, 2017 Wheeler called Zimmerman and confronted her about the use of false quotations in the Fox News article. Wigdor and Wheeler ginned up a story that Zimmerman told Wheeler that she would have the quotations removed from the article and, when they were not removed, that Zimmerman told Wheeler that she had been instructed by her bosses at Fox News to leave the false quotes in the story. Wigdor and Wheeler made up facts out of whole cloth. **If Wheeler was upset about purportedly fabricated quotes of a highly politically-charged nature being falsely attributed to him, why would he admit in a written statement on May 22, 2017 – a full six days after publication of the article on May 16, 2017 – that Zimmerman’s story was “essentially correct and worthy of further investigation”???? In truth, Wheeler admitted to FetchYourNews on May 22, 2017 that Zimmerman’s article was on the money.**

Since accepting the request of the Rich family to assist them in this investigation, I have always been focused on one thing, and one thing only; finding out who is responsible for the death of Seth. I feel as if I was making good progress and getting very close to developing a motive. Further, I can say that I have developed what I believe to be persons of interest, that I essentially would like to talk to further regarding information that they may have surrounding Seth's death. I am of the personal opinion that the information/article reported by FoxNews Channel last Tuesday was essentially correct and worthy of further investigation. That is exactly why when I first learned of this new information developed by a FoxNews investigative journalist, I immediately called the DC Police to inform them.

106. Rupert Murdoch's daughter-in-law, Kathryn Murdoch (wife of James Murdoch), worked for the Clinton Foundation and is a friend of the Clintons. [\[http://www.qdvm.org/kathrynmurdoch/\]](http://www.qdvm.org/kathrynmurdoch/). Kathryn Murdoch is also an outspoken critic of President Trump.

107. At Kathryn Murdoch's request, and for no other reason, Fox pulled Zimmerman's article.

108. On May 23, 2017, Fox retracted the article with the following explanation: "On May 16, a story was posted on the Fox News website on the investigation into the 2016 murder of DNC Staffer Seth Rich. The article was not initially subjected to the high degree of editorial scrutiny we require for all our reporting. Upon appropriate review, the article was found not to meet those standards and has since been removed.

We will continue to investigate this story and will provide updates as warranted." [\[http://www.foxnews.com/politics/2017/05/23/statement-on-coverage-seth-rich-murder-investigation.html\]](http://www.foxnews.com/politics/2017/05/23/statement-on-coverage-seth-rich-murder-investigation.html).

109. On June 5, 2017, Wheeler appeared in an interview published on YouTube channel, *Crowdsouce The Truth*. [\[https://www.youtube.com/watch?v=yDI0AFOHuNI\]](https://www.youtube.com/watch?v=yDI0AFOHuNI). At 17:30 of the video, Wheeler told the hosts that "I haven't walked back anything. As a matter of fact, in my statement that I released a week ago, I mean I said then in my statement in writing that **I do believe that there was some communication between**

Seth and WikiLeaks and I believe that based on common sense ... and you know from information that we're getting from various sources.” (Emphasis added).¹²

Wheeler also confirmed that he had hired an “attorney”.

110. On June 19, 2017, Wheeler made the following statements on YouTube channel, *Jamarl Thomas*:

“what happened was the Fox 5 reporter, a woman named Marina Marroco, she reached out to me on that particular Monday. She had been following the Seth Rich case herself for a while for Fox 5 ... So, I had not read the actual report that was going to be released by the Fox News reporter on Tuesday, but I had heard there was going to be a report released.¹³ So the Fox 5 reporter asked could I give her a comment just a teaser, okay just teaser for the 10 o’clock news ... I stepped outside from dinner literally ... to give her a quick teaser. Now she asked me about 3 or 4 or 5 questions before the camera guy could get set up. Now the truth of the matter is that the camera guy was already set up and rolling if you will without me even knowing that we were being recorded and that’s fine. I mean I don’t have a problem with that ... So, she asked me, and this is important she said so you have information from a source that they have seen emails from Seth Rich computer? And I said I think I said something yes, confirmed. Now what did I mean by that? I meant that it was confirmed by the Fox News reporter who had just told me about this guy, not that it was confirmed that I saw it with my own eyes. So, I never really back tracked on anything. The reporter from Fox News who told me yes it’s confirmed that this guy that this guy saw the emails, okay and so basically what I did was repeated that but not once have I ever said I saw the computer.”

[<https://www.youtube.com/watch?v=er8PhSOk85s>]. Wheeler confirmed that his work for the Rich Family was “done”. Wheeler stated that he declined to keep working on the Seth Rich murder case because “my family and me has [sic] taken so much of a hit in the media over the past couple of weeks. To be honest, I’ve never had to deal with anything

¹² This is the exact same thing that he said to Zimmerman and that she quoted in the May 16, 2017 Fox News story.

¹³ This is a patently false statement. As evidenced by the emails and text messages on May 15, 2017, Wheeler had read Zimmerman’s report.

like this before. You know what I mean? ... It takes a toll on you, so I decided I really don't even want to be involved in this case anymore."

L. Wigdor and Wheeler Concoct A Fake Story

111. As of June 2017, Wigdor had filed and/or had threatened to file numerous lawsuits against Fox, including, without limitation,

- *Ujkic v. Twenty-First Century Fox, Inc. et al.*, Case 1:16-cv-09608 (filed 12/13/2016);
- *Brown et al. v. Twenty-First Century Fox, Inc. et al.*, Case 22446/2017E (filed 03/28/2017);
- *Blanco v. Twenty-First Century Fox, Inc. et al.*, Case 1:17-cv-03017 (filed 04/25/-2017);
- *Lee v. Twenty-First Century Fox, Inc. et al.*, Case 1:17-cv-03835 (filed 05/22/2017)
- *Farrow v. Twenty-First Century Fox, Inc. et al.*, Case 1:17-cv-03836 (filed 05/22/2017)
- *Hughes v. Twenty-First Century Fox, Inc. et al.*, Case 1:17-cv-07093 (filed 09/18/2017)
- *Gollohor v. Twenty-First Century Fox, Inc. et al.*, Case 1:17-cv-08232 (filed 10/25/2017)

(the "Wigdor Discrimination Suits").

112. On or before June 5, 2017, Wigdor met Wheeler. Wigdor and Wheeler agreed, associated, mutually undertook, concerted and combined together for the unlawful purpose of manufacturing claims of defamation against Butowsky, Zimmerman and Fox. Upon information and belief, the conspiracy was launched by a phone call.

113. The purpose of the conspiracy was to extort a settlement of the Wigdor Discrimination Suits by means of a threat to publish fake news.

114. By fabricating a story about Fox colluding with the President to produce “fake news” about Seth Rich, Wigdor believed he could pressure Fox into a huge settlement. Fox had made a bid to acquire shares of “Sky” – the British media conglomerate that delivers internet, television and mobile services to more than 22 million customers in the U.K., Ireland, Germany, Austria and Italy (Fox, which holds a 39% stake in Sky, announced in December 2016 its bid to purchase the remaining shares for \$11.1 billion). Wigdor knew that the British regulators were sensitive to “fake news”. Wigdor believed that Fox would pay him \$60,000,000.00 to keep the fabricated story about collusion with the President quiet. It was blackmail and extortion pure and simple.

115. Wigdor propositioned Wheeler: Wigdor agreed to pay Wheeler \$4,000,000.00 from the proceeds of settlement of the Wigdor Discrimination Suits if Wheeler went along with a false narrative about Fox, the President, “fake news”, collusion, and the Russians.

116. Wigdor believed the made-up story was so salacious that the mere threat of publication of the false narrative would intimidate and coerce Fox into settling the Wigdor Discrimination Suits.

117. Wheeler, who was broke and in financial *in extremis*, took Wigdor’s offer and agreed to participate in the conspiracy.

M. Wigdor Attempted To Extort Fox

118. Prior to June 23, 2017, in anticipation of a mediation of the Wigdor Discrimination Lawsuits, Wigdor prepared a draft of a complaint against Fox, Zimmerman and Butowsky.

119. Wigdor planned to publish the unprivileged draft document to Fox at the mediation.

120. Wheeler told Wigdor that he (Wheeler) had no evidence of any collusion between Butowsky and the President and not to include allegations of collusion in any complaint. Wigdor intentionally disregarded Wheeler's advice and direction. Wigdor included in the draft document salacious, scandalous and impertinent allegations about collusion, the President and "fake news". Consistent with a common scheme and routine business practice, Wigdor drafted the pleading solely for its shock effect. Wigdor intended to use the draft document in an attempt to extort a global settlement of the Wigdor Discrimination Suits from Fox at the mediation.

121. In order make Wheeler's claim look like a "discrimination" lawsuit, so that Wigdor could interject the scandalous allegations about the President in the upcoming mediation, Wigdor and Wheeler falsified a claim of "discrimination". Wigdor claimed that Wheeler was the subject of "discrimination" because "white colleagues [at Fox News] with comparable or inferior skills, expertise and experience have received more air time, made more appearances and been hired into full time positions". The "discrimination" was factually and legally baseless and was inserted in the draft complaint for the improper purpose of extorting Fox. Wigdor knew that Wheeler could not assert a Title VII "discrimination" claim because Wheeler had not filed a charge of discrimination or exhausted his administrative remedies with the Equal Employment Opportunity Commission ("EEOC"). The "discrimination" claim was pure sophistry.

122. In July 2017, Wigdor and Fox engaged in a mediation. Wigdor did not invite Butowsky or Butowsky's attorney, Harrison, to the mediation.

123. At the mediation, Wigdor published the draft document to counsel for Fox – DLA Piper, LLP.

124. The unprivileged draft document falsely stated that Zimmerman, “with knowledge and support of Butowsky, fabricated two quotations and attributed them to Mr. Wheeler:

- ‘My investigation up to this point shows there was some degree of email exchange between Seth Rich and WikiLeaks,’ said Wheeler.’
- ‘My investigation shows someone within the DC government, Democratic National Committee or Clinton team is blocking the murder investigation from going forward,’ Wheeler said. ‘That is unfortunate. Seth Rich’s murder is unsolved as a result of that.’”

125. Wigdor knew these allegations were false. He knew, for instance, (a) that Wheeler had made the statements publicly to Marraco, (b) that Wheeler had actually confirmed the quotations three (3) times to Zimmerman in emails and text messages, (c) that Wheeler had actually affirmed the substance of the quotations with Hannity and Dobbs on May 16, 2017, and (d) that Wheeler had actually told FetchYourNews that Zimmerman’s story was “essentially correct”.

126. The unprivileged draft document made multiple additional false and defamatory statements of fact of and concerning Butowsky, including that:

- Zimmerman, Butowsky and Fox had created fake news to advance President Trump’s agenda.

- Butowsky and Zimmerman were not simply Good Samaritans attempting to solve a murder.¹⁴ Rather, they were interested in advancing a political agenda for the Trump Administration.
- Specifically, it was Butowsky and Zimmerman’s aim to have Wheeler confirm that: (i) Seth Rich was responsible for the leak of DNC emails to WikiLeaks; and (ii) Seth Rich was murdered by a Democrat operative because he leaked the emails to WikiLeaks.
- Butowsky and Zimmerman were not in this alone. Rather, they colluded with Sean Spicer, Steve Bannon¹⁵ and Sarah Flores to shift the blame for the DNC hacks¹⁶ from the Russians to Seth Rich in order to undermine reports of collusion between Russia and the Trump Administration.
- President Trump wanted Zimmerman’s article published to help lift the cloud of the Russia investigation.¹⁷
- Simultaneous with baseless claims of nonpartisanship to British regulators, Fox was contriving with Butowsky and members of the Trump Administration to publish and disseminate fake news to affect politics in America.

¹⁴ Butowsky was not trying to solve the murder of Seth Rich. The Rich family engaged Wheeler – not Butowsky or Fox – to help solve the murder. Wheeler is the one who determined that Seth Rich’s murder was not the result of a botched robbery. Wheeler is the one who told Marina Marraco on camera that he had sources at the FBI who said there is information that could link Seth Rich to WikiLeaks. “**Absolutely, yeah, and that’s confirmed**”. These are Wheeler’s own words.

¹⁵ Butowsky has not spoken with Steve Bannon in three (3) years. Wigdor and Wheeler simply made this up to further their false narrative that the President was involved.

¹⁶ No one “hacked” the DNC servers. Wigdor statements are patently false. The files were too large to “hack”. In truth, emails and attachments were downloaded to a flash drive, not hacked. [<https://consortiumnews.com/2017/07/24/intel-vets-challenge-russia-hack-evidence/>]. **None of Wigdor’s representations were true. They constitute fake news wrapped in more fake news.**

¹⁷ Wheeler told Wigdor there was no evidence of any collusion between Butowsky, Fox and the President and not to include these allegations in any lawsuit. Wigdor disregarded Wheeler’s advice and pursued the false narrative.

- Because of Fox and Butowsky's "devious scheming" British regulators¹⁸ have yet to provide a green light to Fox for the Sky takeover bid, and many U.K. politicians question whether Fox is capable of news dissemination in a fair and neutral manner.
- In falsely quoting Wheeler, Butowsky and Zimmerman attempted – through the publication of fake news – to accomplish what they had set out to do from the start: "solve the problem about Russians are the ones that gave the emails" and establish that "there was no collusion like trump with the Russians."
- Butowsky planned to extort journalist, Seymour Hersh, in an effort to save the May 16, 2017 Seth Rich story.¹⁹

127. As part of the extortion scheme, Wigdor notified Fox that he intended to publish the unprivileged draft document or republish its contents to Ofcom – the

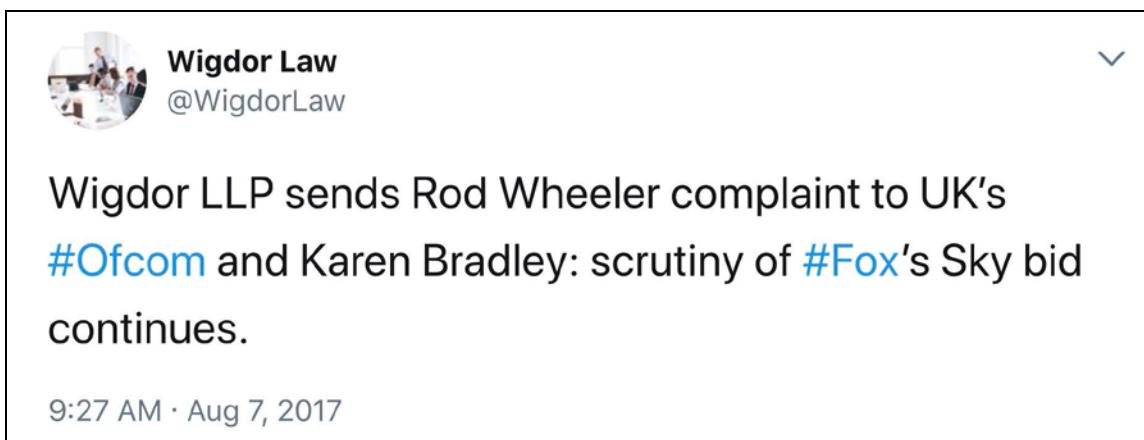
¹⁸ Butowsky never once communicated with the British regulators, and never advocated a position regarding Fox's bid for Sky.

¹⁹ In an audio recording published on July 11, 2017, Hersh stated:

"What I know comes off an FBI Report ... The kid [Seth Rich was] ... a nice boy, twenty-seven. He was not an IT expert, but he learned stuff. He was a data programmer ... Here's what nobody knows ... when you have a death like that, DC cops ... have to get to the kid's apartment and see what you can find ... so they get a warrant ... They go in the house and they can't do much with his computer ... They have a cyber unit in DC, and they're more sophisticated. They come and look at it. The idea is that maybe he's had a series of exchanges with somebody who's said 'I'm going to kill you, you motherfucker' ... and they can't get in ... So, they call the FBI cyber unit. The DC ... Washington Field Office is a hot shit unit ... There's a cyber unit there that's excellent ... The Feds get through and here's what they find. This is according to the FBI Report ... What the Report says is that sometime in late Spring ... early Summer, he [Seth Rich] makes contact with WikiLeaks. That's in his computer ... They found what he had done. He had submitted a series of documents ... juicy emails from the DNC ... He [Seth Rich] offered a sample, an extensive sample ... of emails, and said I want money. Later, WikiLeaks did get the password. He had a ... protected dropbox ... He also, and this is in the FBI Report, he also let people know with whom he was dealing ... The word was passed, according to the FBI Report, 'I also shared this box with a couple of friends, so if anything happens to me, it's not going to solve your problems' ... WikiLeaks got access before he was killed."

<https://www.youtube.com/watch?v=giuZdBAXVh0>. Wigdor completely disregarded Hersh's recorded statement.

communications regulation agency tasked with investigating Fox in connection with the Sky bid and issuing a report as to whether Fox had a “commitment to broadcasting standards”. Wigdor intended to use his fabricated story to argue that Fox was unfit, that Fox was a purveyor of “fake news”. Wigdor intended to argue that Zimmerman’s article demonstrated Fox’s willingness and determination to negatively influence the news agenda and the political process by knowingly generating and publishing “fake news to further its own political agenda.” Indeed, after Fox refused to be extorted by Wigdor, Wigdor acknowledged that he contacted British regulators in an attempt to influence them:



Wigdor LLP sends Rod Wheeler complaint to UK's #Ofcom and Karen Bradley: scrutiny of #Fox's Sky bid continues.

9:27 AM · Aug 7, 2017

128. Wigdor knew that publication of the false and defamatory statements about Butowsky, the President and Fox would cause an immediate and irreversible maelstrom of controversy. Fox wanted to acquire Sky. Wigdor threatened to scuttle the transaction if Fox did not pay up.

129. To its credit, Fox refused Wigdor’s extortive demands.

N. Wigdor Leaked The Fabricated Story About Butowsky To Folkenflik/NPR

130. Wigdor was not deterred by Fox’s refusal to give in to the \$60,000,000.00 settlement demand.

131. Instead of filing his complaint in a court of law, however, Wigdor did the unimaginable: he leaked the fabricated story about Butowsky colluding with the President and Fox to main stream media *prior to commencement of a judicial proceeding.*

132. After he failed to convince DLA Piper to settle, Wigdor's goal was to use main stream media and the Internet as the ultimate hammer to extort and pressure Fox, to insult, embarrass and humiliate Fox, and, ultimately, to enrich himself and Wheeler.

133. Wigdor's use of the press and Internet as an echo chamber multiplied the devastating effect of his defamation upon Butowsky.

134. In July 2017 – after Fox refused to give in to his demands – Wigdor leaked the false statements to National Public Radio ("NPR").

1. The Leaks To Folkenflik and NPR

135. Between July 24, 2017 and July 31, 2017, Wigdor leaked and published his unprivileged draft complaint and discussed its false statements with David Folkenflik ("Folkenflik"), media correspondent for NPR News.²⁰

136. At 7:23 a.m. on August 1, 2017 – before any courts were open – Folkenflik published an online article entitled, "Behind Fox News' Baseless Seth Rich Story: The Untold Tale". [<https://www.npr.org/2017/08/01/540783715/lawsuit-alleges->

²⁰ The selection of Folkenflik for leaking the false and defamatory statements was no coincidence. Wigdor knew that Folkenflik had been a vocal critic of Fox for years, even writing a book about the network and its Chairman Rupert Murdoch entitled, "Murdoch's World: The Last of the Old Media Empires." [<https://www.npr.org/2013/10/21/238899506/inside-murdochs-world-a-peek-into-a-media-empire>].

[fox-news-and-trump-supporter-created-fake-news-story](#)]. The Folkenflik article appears on NPR.org as follows:

MEDIA

Behind Fox News' Baseless Seth Rich Story: The Untold Tale

August 1, 2017 · 7:23 AM ET
Heard on [Morning Edition](#)



DAVID FOLKENFLIK



137. In his article, Folkenflik republished Wigdor and Wheeler's false and defamatory statements in the unprivileged draft document. Wigdor and Wheeler are liable for all of Folkenflik republications.

138. The Folkenflik article quotes Wigdor as follows:

"Rod Wheeler unfortunately was used as a pawn by Ed Butowsky, Fox News and the Trump administration to try and steer away the attention that was being given about the Russian hacking of the DNC emails," says Douglas Wigdor, Wheeler's lawyer.

Wigdor misrepresented to Folkenflik that Butowsky used Wheeler "as a pawn"; misrepresented that the "Trump administration" was involved, implying collusion; and misrepresented that there was an effort on anybody's part to "steer" "attention" away from the non-existent "Russian hacking of the DNC emails". Wigdor's statements were all-around intentionally false. Wigdor's published statements were calculated to support the now debunked fake news story of "Russian collusion".

139. In his article, Folkenflik confirmed that he spoke with Spicer on Monday, July 31, 2017. According to Folkenflik, Spicer stated:

“‘Ed’s been a longtime supporter of the president and asked to meet to catch up,’ Spicer tells NPR on Monday night.

‘I didn’t know who Rod Wheeler was. Once we got into my office, [Butowsky] said, ‘I’m sure you recognize Rod Wheeler from Fox News.’

Spicer says Butowsky laid out what had been found about the case. ‘It had nothing to do with advancing the president’s domestic agenda — and there was no agenda,’ Spicer says. ‘They were just informing me of the [Fox] story.’

Spicer says he is not aware of any contact, direct or not, between Butowsky and Trump. And Butowsky now tells NPR he has never shared drafts of the story with Trump or his aides — that he was joking with a friend.”

Folkenflik confirmed in his article that the Rich family “torch[ed]” Wheeler because of his discussions with the press.

140. Folkenflik’s article represents that Wigdor had “filed” the lawsuit. Folkenflik concealed his collusive arrangement with Wigdor. Folkenflik concealed the fact that Wigdor filed the complaint after leaking and publishing a draft to Folkenflik and after Folkenflik and NPR had already written the story.

a. **The Sheer Breadth Of Folkenflik’s Republication**

141. The Folkenflik article was viewed by millions of subscribers to NPR.org. [See https://www.npr.org/about/press/NPR_Fact_Sheet.pdf (The total number of monthly unique visitors to NPR.org is 36.8 million. Monthly visits to NPR Digital Properties, including NPR.org and NPR apps exceeds 114.4 million)].

142. People accepted Folkenflik and Wigdor’s statements as though it were fact. Folkenflik’s article, including the false narrative and defamatory statements fed to Folkenflik by Wigdor, was republished hundreds of times, with no fact-checking whatsoever, by other main stream media outlets and online newspaper publishers. [E.g.,

<https://www.mediaite.com/online/fox-news-published-fabricated-quotes-in-seth-rich-conspiracy-according-to-lawsuit/>;

<http://kut.org/post/behind-fox-news-baseless-seth-rich-story-untold-tale>;

<http://www.wbur.org/npr/540783715/lawsuit-alleges-fox-news-and-trump-supporter-created-fake-news-story>;

<http://keranews.org/post/behind-fox-news-baseless-seth-rich-story-untold-tale>;

<https://ww2.kqed.org/forum/2017/08/02/lawsuit-claims-white-house-involvement-in-discredited-fox-news-story/>;

<http://boisestatepublicradio.org/post/lawsuit-alleges-fox-news-and-trump-supporter-created-fake-news-story#stream/0>;

<https://www.opb.org/news/article/npr-behind-fox-news-baseless-seth-rich-story-the-untold-tale/>;

<http://kzyx.org/post/behind-fox-news-baseless-seth-rich-story-untold-tale#stream/0>;

<http://www.wvia.org/blogs/npr-news/lawsuit-alleges-fox-news-and-trump-supporter-created-fake-news-story/>;

<http://www.cpr.org/news/npr-story/behind-fox-news-baseless-seth-rich-story-the-untold-tale>;

<http://wglt.org/post/lawsuit-alleges-fox-news-and-trump-supporter-created-fake-news-story#stream/0>;

<https://wfpl.org/post/behind-fox-news-baseless-seth-rich-story-the-untold-tale/>;

<https://www.wmfe.org/behind-fox-news-baseless-seth-rich-story-the-untold-tale/76249>;

https://news.wbhm.org/npr_story_post/2017/behind-fox-news-baseless-seth-rich-story-the-untold-tale/;

<https://www.hollywoodreporter.com/thr-esq/fox-accused-lawsuit-publishing-fake-news-at-donald-trumps-behest-1025708>;

https://www.reddit.com/r/washingtondc/comments/6qw5z6/from_npr_behind_fox_news_baseless_seth_rich_story/?st=jc3nc6qp&sh=f8c35be4;

<https://newrepublic.com/article/144200/meet-reporter-driving-fox-newss-biggest-craziest-stories>;

<https://www.memorandum.com/170801/p30#a170801p30>;

<https://www.si.com/tech-media/2017/12/10/best-journalism-writing-reporting-2017-media-circus>;

<http://es.redskins.com/topic/414681-npr-behind-fox-news-baseless-seth-rich-story-the-untold-tale/>;

<https://thinklab.com/content/510254>;

<https://muckrack.com/davidfolkenflik/articles>;

https://www.huffingtonpost.com/entry/fox-news-white-house-seth-rich_us_59809958e4b0d6e28a10cb6e;

<https://mediaequalizer.com/brian-malone/2017/08/cnn-gleefully-exploits-bizarre-lawsuit-filed-against-fox-news>;

<https://www.mediamatters.org/video/2017/08/01/CNNs-Brian-Stelter-explains-how-new-Seth-Rich-report-shows-the-connections-between-Fox-and/217471>]. Print media, including *Vanity Fair*, also republished Wigdor's false and defamatory statements to NPR. <https://www.vanityfair.com/news/2017/08/white-house-fox-news-seth-rich>

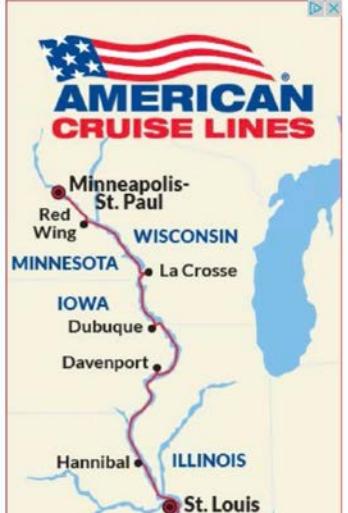
(“‘Rod Wheeler unfortunately was used as a pawn by Ed Butowsky, Fox News, and the Trump administration to try and steer away the attention that was being given about the Russian hacking of the D.N.C. e-mails,’ Douglas Wigdor ... told NPR.”)]. Mediaite called the Folkenflik article a “bombshell NPR report”:

126

Fox News Published Fabricated Quotes in Seth Rich Conspiracy According to Lawsuit

by [Joe DePaolo](#) | 11:17 am, August 1st, 2017

[Tweet](#) [Share](#) [Reddit](#)



Earlier, [we posted about](#) a [bombshell NPR report](#) on allegations made by longtime Fox News contributor **Rod Wheeler** that the network coordinated with the White House on coverage of the **Seth Rich** story.

143. In addition to the Folkenflik article, NPR simultaneously broadcast and republished Wigdor’s false and defamatory statements in a different format – to its *Morning Edition* radio audience.

144. The NPR radio broadcast was heard by millions of people across the Country. [See https://www.npr.org/about/press/NPR_Fact_Sheet.pdf (Weekly Listeners for all NPR Stations is 37.7 million. Weekly Listeners for NPR Programming and Newscasts is 30.2 million)].

b. *Abuse Of The Twitter Echo Chamber*

145. On August 1, 2017, Folkenflik also published his article to a new target audience – his 75,100 followers on Twitter:



David Folkenflik 
@davidfolkenflik

My full look at Fox's baseless Seth Rich story - and why
a Fox contributor alleges it was designed to protect
Trump



Behind Fox News' Baseless Seth Rich Story: The Untold Tale
npr.org

8:50 AM · Aug 1, 2017

5,220 Retweets 7,124 Likes

146. Folkenflik's tweet, with the attached article, was retweeted 5,220 times and was liked 7,124 times...on August 1, 2017 alone.

c. **Massive Republication Via Twitter**

147. Folkenflik's article was republished on Twitter millions of times. On August 1, 2017 *prior to 12:00 p.m. Noon (EST) alone*, the article was tweeted (*i.e.* published) by the following persons and many others:

- **NPR Politics – 2,930,748 followers**



Behind Fox News' Baseless Seth Rich Story: The Untold Tale
npr.org

8:45 AM · Aug 1, 2017

- **NPR Business – 19,216 followers**
- **N/A – 8,505 followers**
- **Mark Memmott – 5,559 followers**
- **Steven D'Souza – 13,819 followers**

- *Donna Brazile* – 657,492 followers
- *LiA* – 49,239 followers
- *J.M. Berger* – 44,835 followers
- *Jackson Proskow* – 37,347 followers
- *91.5 KRCC* – 4,380 followers
- *Muckmaker* – 67,438 followers
- *Puppymnkey* – 142,686 followers
- *Greg Pinelo* – 14,774 followers
- *audie cornish* – 120,241 followers
- *MiddleclassVote* – 3,825 followers
- *John Adams* – 3,940 followers
- *Diana Butler Bass* – 28,251 followers
- *Michael Weiss* – 103,206 followers
- *Veterans United March* – 3,089 followers
- *Andy Kroll* – 16,921 followers
- *The Gospel of Hemp* – 4,055 followers
- *Sunbeams Are Free* – 2,281 followers
- *Zeke Miller* – 206,497 followers
- *Caroline O* – 311,000 followers.

148. One of the persons who republished (*i.e.*, retweeted) Folkenflik’s tweet was Brian Stelter (“Stelter”), host of CNN’s @ReliableSources and senior media correspondent for CNN. Stelter had 552,000 followers on Twitter as of August 1, 2017.

149. Stetler retweeted Folkenflik’s article to his 552,000 followers, stating:

 **Brian Stelter**  @brianstelter · Aug 1

Rod Wheeler is suing Fox News — making stunning allegations about W.H. foreknowledge of Fox's bogus Seth Rich story



Behind Fox News' Baseless Seth Rich Story: The Untold Tale
npr.org

336 3.4K 5.4K

 **Brian Stelter**  @brianstelter

This is a [@DavidFolkenflik](#) scoop... the details will be up on [@NPR](#)'s web site later this morning...

7:55 AM · Aug 1, 2017

150. Many of Stelter's followers, including "Southern Highlander", replied to Stelter's retweet, further publishing the Folkenflik article to a steadily, ever-increasing massive audience:

 **Southern Highlander**
@nikwasi

Replying to [@brianstelter](#) and 2 others



Behind Fox News' Baseless Seth Rich Story: The Untold Tale
npr.org

8:56 AM · Aug 1, 2017

151. Donna Brazile – former Chair of the DNC – had **657,500 Twitter followers** on August 1, 2017:

Donna Brazile 
@donnabrazile

Fellow, Shorenstein Center, Harvard's Kennedy School. Former Chair, Democratic National Committee (DNC).

⌚ Washington, DC ⚖ donnabrazile.com

3,662 Following **657,502 Followers**

Ms. Brazile republished Folkenflik's article to her 657,500 followers as follows:



Donna Brazile

@donnabrazile

Behind Fox News' Baseless Seth Rich Story: The Untold Tale n.pr/2uUawhq. Seth was a good soul and look at this shameful act.



Behind Fox News' Baseless Seth Rich Story: The Untold Tale
npr.org

9:20 AM · Aug 1, 2017

152. Bauman – the consultant and spokesperson assigned to the Rich family by the DNC – republished Folkenflik’s article to his 3,127 Twitter followers. Bauman claimed that he was left “literally speechless” by the Folkenflik/Wigdor statements about Butowsky:

 **Brad Bauman** 
@bradbaumn

I'm literally speechless.



Behind Fox News' Baseless Seth Rich Story: The Untold Tale
npr.org

10:09 AM · Aug 1, 2017

153. One of the broadest republications of the Folkenflik article occurred when “Muckmaker” tweeted the article to his/her **67,000 followers**:

Muckmaker
@RealMuckmaker

All the news, views, opinions and cartoons for the left because they're right!
Follow Muck as he does battle with the Russian trolls and bots! #TheResistance

⌚ Montana, USA

68,286 Following **67,335** Followers

Muckmaker republished the Folkenflik article multiple times on August 1, 2017, including the following:



Muckmaker
@RealMuckmaker

▼

Behind Fox News' Baseless Seth Rich Story: The Untold Tale



Behind Fox News' Baseless Seth Rich Story: The Untold Tale
npr.org

10:01 AM · Aug 1, 2017

154. One of Muckmaker's followers is Soledad O'Brien. O'Brien had **796,570** Twitter followers on August 1, 2017:



Soledad O'Brien 

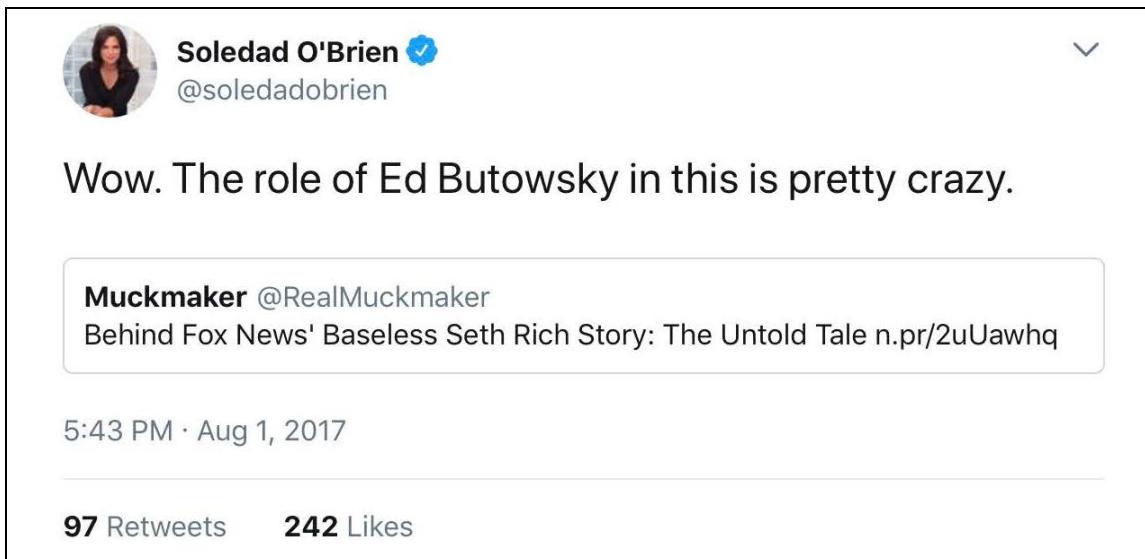
@soledadobrien

CEO StarfishMedia. Host: [@MatterofFacttv](#) this weekend! [matteroffact.tv/on-tv/](#)
Producer of many things including 4 kids. I ❤️ wine and horses.

📍 New York

434,979 Following **796,570** Followers

Within minutes of receiving Muckmaker's tweet at 5:29 p.m., O'Brien republished Muckmaker's tweet as follows:



Soledad O'Brien 

@soledadobrien

Wow. The role of Ed Butowsky in this is pretty crazy.

Muckmaker @RealMuckmaker
Behind Fox News' Baseless Seth Rich Story: The Untold Tale [n.pr/2uUawhq](#)

5:43 PM · Aug 1, 2017

97 Retweets **242** Likes

O'Brien did no fact-checking. She believed every word of the fabricated story republished by Folkenflik. She believed the false narrative, as most did, as if it were fact.

O'Brien was so impacted by the falsehoods that she felt compelled to mass publish it to her 800,000 followers.

d. Wigdor Joined In The Gang-Tweeting

155. On August 1, 2017 – before the Courts were even open – Wigdor retweeted (republished) Folkenflik's tweet and Stelter's tweet to Wigdor's 400 followers. Wigdor's retweets were then retweeted and liked thousands of times:



Wigdor Law Retweeted

David Folkenflik 
@davidfolkenflik

My story about Fox's baseless Seth Rich story - and allegation it was devised to distract from Trump crises

Up to \$25,000 Reward

SETH CONRAD RICH
LOCATION: 2100 block of Flagler Place NW
DATE: July 30, 2016
TIME: 4:19 am
CONTACT: Det. Jose Della Camera (202) 438-8302
Det. Brian Braddol (202) 437-4366
Homicide Branch (202) 645-9600

DESCRIPTION OF INCIDENT
On Sunday July 10, 2016, at approximately 4:19 am, Mr. SETH CONRAD RICH was found deceased in the 2100 block of Flagler Place NW. The Metropolitan Police Department is investigating.

Behind Fox News' Baseless Seth Rich Story: The Untold Tale
npr.org

8:39 AM · Aug 1, 2017

2,108 Retweets 3,453 Likes

Wigdor also encouraged his Twitter followers to listen to the NPR radio broadcast:



Wigdor Law
@WigdorLaw

Listen to today's NPR broadcast discussing Rod Wheeler,
@FoxNews, the White House & Seth Rich murder
conspiracy: n.pr/2f40DtO

"Rod Wheeler unfortunately was used as a pawn by Ed Butowsky, Fox News and the Trump administration to try and steer away the attention that was being given about the Russian hacking of the DNC e-mails."
-Douglas H. Wigdor, Founding Partner Wigdor LLP

9:38 AM · Aug 1, 2017

156. Folkenflik was not done. On August 1, 2017, Folkenflik republished Wigdor and Wheeler's false statements during an interview with PBS News Hour. [<https://www.youtube.com/watch?v=FJvgHjis8c>]. Folkenflik, *inter alia*, confirmed that:

"You have a guy [Wheeler] who basically is saying that Fox News as a news organization and a Trump backer [Butowsky] are working in concert to try to arrive at a preconceived narrative and story rather than simply following journalistic effort to figure out what the facts are."

157. The PBS News Hour broadcast was watched by hundreds of thousands of viewers. [See <https://www.pbs.org/newshour/press-releases/pbs-newshour-sets-record-growth-in-q1-2016> (According to Nielsen national ratings, NewsHour's P2+ average audience for February 2016 was 1,083,000)].

158. PBS News Hour has a YouTube channel with over **540,000** subscribers. The Folkenflik interview was uploaded to YouTube and viewed over 10,000 more times.

159. After August 1, 2017, Folkenflik gave further interviews in which he continued to push the false narrative created by Wigdor and Wheeler. Folkenflik told

Mediaite columnist John Ziegler that “Butowsky’s narrative is ‘inconsistent’”. Without a shred of proof, Folkenflik falsely repeated that “collaboration” between Butowsky and the President “is still a plausible assumption with the current evidence.” [<https://www.mediaite.com/online/david-folkenflik-very-hard-to-rule-out-white-house-involvement-in-seth-rich-conspiracy/>].

2. **Wigdor Wehrmacht**

160. On August 1, 2017, after setting Folkenflik lose, Wigdor cranked up his own public relations wehrmacht, and began a blitzkrieg of defamation in main stream media, all of which was televised and broadcast in Texas.

161. Wigdor and Wheeler appeared on MSNBC with Ari Melber (“Melber”). [<https://www.youtube.com/watch?v=VFTdWAWrocQ>].

162. In addition to the millions of people who, upon information and belief, watched the MSNBC interview live, Melber republished the interview to his **38,262 Twitter followers** and to MSNBC’s **1,975,316 Twitter followers**:



TheBeat w/Ari Melber 
@TheBeatWithAri

@rodwheeler says Fox News misquoted him in story on
Seth Rich #TheBeat @MSNBC snpy.tv/2vgwxJV

6:36 PM · Aug 1, 2017

231 Retweets 391 Likes

163. In the interview with Melber, Wheeler made the following statements:

“That’s right well I was asked to get involved in conducting an investigation, a murder investigation of Seth Rich and that why I got involved, so I could try and find out who killed this guy. During the course of my investigation, there was a lot of things that came up uh there was a lot of suspicious information that I was learning about possibly the DNC being involved to some degree, I don’t know. What I decided to do was to take all my information and give it to the police department like you should do in any case and go from there. But halfway through the investigation and up the point this article was released by Fox, there were these quotes in there from me supposedly saying that I knew for a fact that Seth Rich the decedent had been in contact with WikiLeaks emailing them emails, that was not true.

...

I think uh well I know for a fact Ed Butowsky, who was the individual that was funding the investigation, he had been in contact with people from the White House and he was the one that was pushing this Russian hacking narrative, by the way that I didn’t know a whole lot about because I wasn’t you know trying to debunk a narrative or support a narrative I was trying to find a murderer.

I do know that, and Ed even admitted it himself. And I think the bottom line from all of this, Ari, is the reporter herself from Fox News she even admitted it that she lied and put those quotes in there. I mean she admitted that but at the same time to this day they have not retracted that as a result of those quotes and her story it’s then damaged my credibility and my integrity.”

When asked about Butowsky’s May 14, 2017 text, Wheeler stated:

“Well first of all, I’m thinking why would the President have to review a story pertaining to a death, to the murder of a guy in DC, why would the President even be involved in this, but at that point, Ari, it was rather obvious to me that they actually lured me into this investigation.²¹ They meaning this Fox News reporter and Ed Butowsky to substantiate this Russian narrative thing or to debunk that when in fact they told me that I was really getting involved just to solve a murder. All I want them to do is to correct the record, to tell the truth.”

When asked about the “explosive allegations” in the complaint about the White House, Wigdor stated:

²¹ Wheeler’s statements to Melber are revealing. Wheeler clearly did not believe the President was involved in anything. And, if Wheeler knew “at that point” – May 14, 2017 – that he had been “lured into this investigation”, ***why did Wheeler continue to communicate with Zimmerman on May 15, 2017?*** Wheeler did not tell anyone he was “lured” into *anything* until after publication of Zimmerman’s article on May 16, 2017 and after Wheeler was threatened with litigation by the Rich family and Bauman.

“You don’t need them, but it’s the backdrop for why they defamed Rod. And you know it’s really interesting because you read the statement by Fox they say that our claims are erroneous … **We are going to take discovery in this case. We are going to see the emails and the texts the phone calls or the visits to the White House between Ed Butowsky and President Trump and other people in the White House** and we are going to get even more information in the case and what’s really amazing, last point, is that the General Counsel of 20th Century Fox … was in England trying to convince the regulators in England they should be able to purchase Sky and that they met the broadcasting standard by implementing new policies the day before this article came out.”

(Emphasis added). Wigdor had no good faith basis to believe he was going to see emails, or text or phone calls between Butowsky and President Trump. These scandalous statements made to main stream media were solely intended to fuel the media frenzy created and stirred by Wigdor.

164. In addition to Twitter, the August 1, 2017 MSNBC broadcast was uploaded to MSNBC’s YouTube channel – which has **689,000 subscribers**. The YouTube video was viewed over 117,000 times.

165. On August 2, 2017, Wigdor appeared on CNN with Wolf Blitzer, where he published the following false and defamatory statements about Butowsky:

“I watched that interview last evening with your colleague, Chris Cuomo, and it was actually highly entertaining because much of what he [Butowsky] said made absolutely no sense. You know take for instance the text message that he sent to Rod Wheeler. He said that the President read the article. He wanted it out immediately and now he’s trying to say that text was somehow a joke. I mean this was not a laughing matter. This was a text message. There was no emoji at the end of it. There was no smiley face. It wasn’t a joke. Ed Butowsky, as he said in texts, was in conversations with the White House, with the President.”

[<https://www.youtube.com/watch?v=S2BafRHiuZY>].

166. Wigdor’s entire narrative regarding Butowsky’s connection to the Administration, particularly the President, is knowingly false. Butowsky has never spoken to the President, nor has he claimed to have ever spoken to the President. Wigdor

intentionally disregarded Wheeler's advice that there was no evidence of collusion, failed to conduct any investigation, failed to interview a single person, and even disregarded Spicer's statements to Folkenflik that he (Spicer) was not aware of any contact between Butowsky and the President. It is axiomatic and obvious that "collusion", *i.e. between Butowsky and the President or between the Trump Administration and the "Russians"*, cannot occur if the people have never met or communicated. "Collusion", by definition, requires cooperation or agreement to act in concert. The suggestion that the President of the United States would have colluded with Butowsky – a person unknown to the President and with whom the President has never communicated – is preposterous. Wigdor knew that the representations were false, and Folkenflik shamelessly republished the obviously fake news.

167. Wigdor recklessly and irresponsibly created and perpetuated a false narrative to further his goal of extorting Fox. Wigdor's actions were highly unethical, deceitful, fraudulent and unlawful acts of racketeering activity, clearly calculated to intimidate and injure Butowsky.

168. In his interview with CNN, Wigdor further misrepresented:

"Why do they want to attribute quotes to him that weren't true? And as we set forth in the complaint, the reason for that was because that the White House in conjunction with Fox wanted to steer the narrative away from the Russian hacking scandal and steer that towards Seth Rich, which is really a tragedy. I feel my heart really goes out to the Seth Rich family for being part of this.

...

What he [Wheeler] was hired to do was to do an investigation into the murder of Seth Rich, he wanted to do that, unfortunately he was used as a pawn in this case by Ed Butowsky and Fox News, he was used as a pawn again to steer away the narrative and that's all documented not only in text messages, but also in voice recordings, the case is strong and not only were the statements made in the May 16 article false but you also have Ed Butowsky and Malia Zimmerman admitting those quotations were false."

169. The CNN/Wolf Blitzer interview was viewed live by hundreds of thousands of people, perhaps millions world-wide. It was uploaded to YouTube by Wigdor and viewed at least 228 more times.

170. Indeed, as part of Wigdor's defamation campaign, he regularly uploaded videos to his YouTube channel, *Wigdor LLP – Employment Lawyer NYC*. [<https://www.youtube.com/channel/UCeogDStcI35nkzCJYNatVBQ>].

171. On August 3, 2017, Wigdor partner Christensen appeared with Wheeler on CNN with Chris Cuomo ("Cuomo"). [<https://www.youtube.com/watch?v=d5L-NF6cDOo>]. Wheeler published the following false and defamatory statements about Butowsky:

“CUOMO: Alright so let's get to some of the allegations and as you know we interviewed Ed Butowsky here. He had some stiff responses and I want to get your response to his argument. The main allegation in the lawsuit is that they used you to forward a lie essentially that they misquoted you, is that accurate? Is that your argument here?

“WHEELER: That's exactly my argument, Chris ... I really tried hard to find a murderer not to debunk a Russian narrative ... And while I was in the process of trying to find that murderer behind the scenes what I did not know is that this reporter and this rich guy, Ed Butowsky, had another plan in mind and that's why they brought me into this thing and I realize that now.

...

As far as I'm concerned, this man [Butowsky] knew he was lying. He's been lying the entire time.

...

We had this meeting [with Sean Spicer on April 20, 2017]. We met for about 10 -15 minutes and I'll tell you real quickly how the meeting ended: Sean Spicer said, 'I'm not sure how I can help with this investigation'. He said, 'Rod if you want to talk some more about this or maybe if you want me to put you in touch with somebody at the Justice Department'. He gave me his business card ... He also gave me his personal cell phone number ... This is what he gave me, and he said if you need some more help give me a call. I've never called Sean Spicer after that, but that's the truth and that's what happened.

CUOMO: ... This is not the court of public opinion. In a court of law you only know what you show and you're going to have to demonstrate that Sean Spicer, if you're going to include the White House in a concocted story scheme, then you're going to have to show that they knew something about it and that they wanted to advance it and there is some merit to this suggestion the President of the United States had seen this article and wanted it advanced, do you have any proof to do any of that?

CHRISTENSEN: We just filed a lawsuit as you know on the first [of August] and ... the defendants are entitled to answer and then we will proceed to discovery and we will obtain that information that we believe is out there and will prove Rod's story."

Wheeler's own words prove that the White House did not know and was not involved any scheme to publish "fake news". Christensen's words demonstrate that Wigdor published false statements without evidentiary support. The false accusation of collusion with the President, Spicer, Bannon, Flores, etc., was invented out of whole cloth. Wigdor republished the Christensen/Wheeler interview to Wigdor's Twitter followers:



Wigdor Law
@WigdorLaw

Jeanne Christensen & Rod Wheeler Discuss Ed Butowsky, The White House on CNN with Don Lemon - 8.3.17: youtu.be/d5L-NF6cDOo?a via

 Jeanne Christensen & Rod Wheeler Discuss Ed Butowsky, The White House... www.youtube.com

2:25 PM · Aug 15, 2017

172. On August 3, 2017, Wigdor told James Goodnow that "[i]t seems that Fox is a fake-news factory. It seems that they keep on putting out things to help the president, even if it's not true." [<https://abovethelaw.com/2017/08/fire-fury-and-fox-news/>].

Wigdor knew his statements would be republished by Goodnow and, indeed, Wigdor's words appeared in an *Above The Law* article published on August 11, 2017.

173. On August 3, 2017, Wigdor wrote an eight-page letter to British regulators, in which he repeated the false and defamatory statements about Butowsky.

[\[https://www.thedailybeast.com/fox-news-fake-news-could-doom-rupert-murdochs-dream\]](https://www.thedailybeast.com/fox-news-fake-news-could-doom-rupert-murdochs-dream). Wigdor's letter to Ofcom, *inter alia*, states that "Butowsky's representations suggest something more than 'low' broadcasting standards. His claims suggest a failure to adhere to any standards. Fox must account for this failure and demonstrate why the public should have confidence in its commitment to broadcasting standards."

174. On Tuesday, August 8, 2017, the New York Times published an expose entitled, "Fox Is Said to Have Declined to Settle Suits for \$60 Million".

[\[https://www.nytimes.com/2017/08/08/business/media/fox-is-said-to-have-declined-to-settle-suits-for-60-million.html\]](https://www.nytimes.com/2017/08/08/business/media/fox-is-said-to-have-declined-to-settle-suits-for-60-million.html). The article describes Wigdor's motive for defaming Butowsky. The New York Times reported that:

"At a confidential mediation proceeding in late July [2017]²², the lawyer Douglas H. Wigdor asked for more than \$60 million to settle several disputes with Fox News and 21st Century Fox, according to two people familiar with the matter. Mr. Wigdor proposed that the settlement be paid in a lump sum, giving him the discretion to distribute the payments, according to one of the people.

Those cases included gender and racial-discrimination lawsuits against the company that Mr. Wigdor had filed on behalf of more than 20 current and former employees in the last several months and at least one explosive complaint that had not yet been made public.

²² It was at this mediation proceeding in July 2017 that Wigdor published the unprivileged draft complaint containing false and defamatory statements about Butowsky. Wigdor published the statements in an attempt to extort a settlement of the Wigdor Discrimination Suits.

The company would not accept Mr. Wigdor's offer and no resolution was reached, said the people, who requested anonymity to discuss a confidential matter. Mr. Wigdor's proposal to settle the disparate cases all together is considered unusual, as it is rare that there are multiple suits with the same lawyer against the same party. Also, cases typically vary greatly in their merit, making them difficult to value as a group.

After mediation failed, Mr. Wigdor went public last week with that explosive case, filing a defamation and racial-discrimination lawsuit against 21st Century Fox and Fox News that focused on an article about the death of Seth Rich, a young aide for the Democratic National Committee. The suit included accusations that the White House and a wealthy Trump supporter pushed Fox News to publish an article on its website as part of a scheme to end speculation about the president's ties to Russia. Mr. Wigdor brought the suit on behalf of Rod Wheeler, a private detective involved in the case who said that Fox News had fabricated quotations from him in the article. Fox News, which later retracted the article, has denied the claims."

The New York Times article further noted that within a week after filing the Wheeler lawsuit, Wigdor published "a letter to the British authority scrutinizing 21st Century Fox's \$15 billion bid for Sky, a European satellite giant."

"In the letter, he [Wigdor] outlined evidence that he said showed that the company had not been transparent during the regulatory review; failed to adequately clean house after its harassment scandals; knowingly disseminated fake news, including the Seth Rich article; and did not live up to an earlier agreement to change its corporate culture.

The British Culture Ministry announced on Tuesday that it had written to the Office of Communications, or Ofcom, seeking clarification on its earlier review of whether the company had met British broadcasting standards. In June, Ofcom ruled that Rupert Murdoch, executive chairman of 21st Century Fox, and other company executives were 'fit and proper' to hold broadcasting licenses in Britain, even as it concluded that the sexual harassment scandal at Fox News had amounted to 'significant corporate failures.'"

Wigdor told the New York Times that "[w]e went public with Rod Wheeler's complaint, and we did that because they [Fox] weren't willing to take certain steps that we thought were warranted. Since we went public with it, of course we let Ofcom know about it."

Wigdor used the false and defamatory statements about Butowsky colluding with the

President and Fox as part of his war against Fox. Butowsky was mere collateral damage to Wigdor. At all times relevant to this action, Wigdor acted with reckless disregard for the truth, and to further his personal agenda – to get Fox and to retaliate against Fox because Fox spurned Wigdor’s efforts to extort the \$60 million settlement. As evidenced by Wigdor’s preconceived plan to extort Fox, his blatant disregard of Harrison’s June 2017 letter, his conscious disregard of both Wheeler’s texts, emails, recorded interviews, and statements, and the public record, his desire to get Fox and his willingness to manufacture fake news about collusion between Butowsky, Fox and the President, Wigdor harbored ill-will, spite, actual malice and a desire to hurt Butowsky.

175. On August 8, 2017, Wigdor partner Willemin appeared live on “Make it Plain”, and repeated the false and defamatory statements about Butowsky. [https://www.facebook.com/MakeItPlain/videos/10155724601497048/?hc_ref=ARQ_eG_Fxdz7Z8iaysXagWN8LiJeuY9RU_0w0_y1CVKs3cxKPRfXuHnxegLDnvxNK-yw].

176. On September 12, 2017, Wigdor appeared on BBC Television and gave an interview. [<https://www.youtube.com/watch?v=EQBRqKuLzt4>]. Wigdor made the following statements:

“The decision that Ofcom originally made was before we filed a lawsuit on behalf of Rod Wheeler. It involved a very complicated set of facts, but the bottom line was that Fox News was creating fake news, and what you really have is you have the Murdoch empire from top to bottom, this isn’t just Fox News, this is the New York Post, this is everything the Murdochs touch.”

177. On September 19, 2017, Wigdor spoke with CNN Media’s Oliver Darcy (“Darcy”). [<http://money.cnn.com/2017/09/19/media/fox-news-court-dismiss-lawsuit-seth-rich/index.html>]. Wigdor made the following false and defamatory statements to Darcy:

“We are confident that our client will ultimately be vindicated in a public court of law that will expose how Fox and the individually named defendants created fake news in an attempt at diverting attention away from the Russian hacking scandal.”

178. On September 22, 2017, the New York Times published an article about Wigdor’s war against Fox entitled, “Leading the Legal War Against Fox”. <https://www.nytimes.com/2017/09/22/nyregion/douglas-wigdor-fox-news.html>[]. Wigdor did not conceal his feelings for Fox: “My view of 21st Century Fox and Fox News is that from top to bottom there is a systemic culture of not only discriminating against people based on their gender and color, but also of retaliating against them when they stand up to voice complaints,” he told the New York Times, reaffirming the harsh assessment of Fox. “Am I at war with Fox?” Wigdor added, repeating a question he was asked. “Yeah, I guess I am.”

179. The New York Times noted that:

“Many lawyers are content to let their paperwork speak for them, but in the middle of his flurry of litigation, Mr. Wigdor opened a new and seemingly damaging front in his war against the network. At his own expense, he flew to London in May to testify in front of British regulators who were trying to determine whether 21st Century Fox was ‘fit and proper’ to acquire the satellite broadcaster Sky. Mr. Wigdor said it was not, making his case in a 167-page memo.²³ Before flying back to New York City, he lobbed a last extralegal bomb at his antagonists. In a series of interviews with the British media, he started referring to the network as ‘18th Century Fox.’

If all of this sounds personal, it is. While Mr. Wigdor stands to make a fortune if his lawsuits are successful, he seems less interested in collecting contingency fees — he is already a wealthy man — than in pursuing what amounts to a crusade.”

180. On September 22, 2017, Bloomberg Businessweek published an article entitled, “The Trump-Loving Lawyer Who Won’t Stop Suing Fox News”. <https://www.bloomberg.com/news/features/2017-09-22/the-trump-loving-lawyer-who->

²³ Wigdor’s 167-page memo, upon information and belief, contains further false and defamatory statements about Butowsky.

[won-t-stop-suing-fox-news](#)]. The Bloomberg article captured Wigdor's malice and disdain for "19th Century Fox". Wigdor told Bloomberg Businessweek that "[w]hen we write our complaints, there's an effort on our part to make it as colorful as possible. We're writing in a way that puts the company on its heels. Because we know that these companies have multimillion [dollar] marketing resources. Now we're suing this company and trying to change the public perception." The Bloomberg article observed that:

"In July, according to a report in the New York Times, Wigdor proposed in a mediation proceeding to settle all of the outstanding suits against 21st Century Fox for more than \$60 million—a proposal Fox rejected. (Wigdor and Fox declined to comment on the negotiations.) Shortly thereafter, on Aug. 1, Wigdor filed a seventh suit against Fox News. This time his client was Rod Wheeler, a black contributor who said he'd been discriminated against by the network and that his reputation had been marred by his association with the manufacturing of a fake news story about Seth Rich, a young Democratic National Committee staffer who'd been murdered.

The complaint read like a D.C. spy noir, rife with double-dealing and subplots. Among other things, it alleged that Fox News had colluded with members of the White House to gin up a bogus news narrative about Rich's murder, aiming to deflect scrutiny from the Trump campaign's contacts with Russian political operatives during the 2016 election. Wheeler, an ex-homicide detective, claimed that quotes had been fabricated under his name in a FoxNews.com story that sought to bolster the ungrounded theory that it might have been Rich, not the Russians, who provided WikiLeaks with a cache of stolen emails from the DNC. The story has since been retracted.

The White House denied the allegations in the complaint, as did Fox News President Jay Wallace, who called them "completely erroneous." In a motion to dismiss, lawyers for the network have argued that Wheeler was 'neither misquoted nor defamed' and that, in any case, he was contractually bound to pursue such claims in arbitration, not court. Even so, the wild, confusing allegations spawned countless news stories on both sides of the Atlantic—and, in the end, helped to persuade British authorities to nudge 21st Century Fox's pending acquisition of Sky deeper into the regulatory thicket."

Wigdor told Bloomberg that part of his "press strategy" was to go "on the TV news circuit. Sometimes he stages press conferences. Often he grants in-depth access to a

single reporter from a prominent news outlet, on the condition that the story be embargoed until the day a suit is filed, when it can be set off like a firecracker.”²⁴

181. On October 23, 2017, Wigdor appeared on CNBC’s Closing Bell. [<https://www.youtube.com/watch?v=KgmpGdgaTg>]. The following exchange took place concerning Fox’s bid to acquire Sky:

“CNBC ANCHOR: I’m curious why you would be called to testify in this particular case. This is about them being able to buy another company and whether or not they are fit to buy that company. You’re suing them. Of course, you are going to say they are not fit. You have an axe to grind here.

WIGDOR: That’s a good question. I’m glad you asked it actually because what they are trying to determine is whether Fox should purchase Sky, the Foxification of Sky. Whether they meet broadcasting standards, whether or not they are fit and proper. Believe it or not I have not told the competitions and market authority what they should or should not do. I have not made any recommendations, but I feel obligated that I have a lot of information. I have 22 clients and I believe in transparency … I’m giving them information. They can do with that what they feel appropriate.

...

CNBC ANCHOR: I’m coming off cynical here, but another part of me thinks, okay, you’re doing this to gain leverage with the company because you’re in negotiations with them. You can use this as leverage with them, to get a better settlement, maybe you don’t go [to England] the second time if you get decent settlements for your 22 clients.

WIGDOR: I’m just trying to represent my clients zealously under the under the auspices of the law. I’ve never tried to use this in my negotiations with them … I represent Rod Wheeler in the Seth Rich murder fake news case. I mean that goes to the very heart of broadcasting standards, and whether the British people want the Foxification of Sky is a serious issue for them to consider.”

On October 24, 2017, Wigdor republished the CNBC interview to his Twitter followers:

²⁴ Consistent with his business model, Wigdor used Folkenflik as rocket fuel to ignite a main stream media feeding frenzy. Wigdor’s “press strategy” was to put Fox on its heels in order to extort a settlement in the face of all the bad press.

 **Wigdor Law**
@WigdorLaw

Douglas Wigdor on CNBC - Fox News Hits New Hurdle in Sky Deal - Bill O'Reilly Allegations - 10.23.17:
youtu.be/KgmfpGdgaTg?a via



Douglas Wigdor on CNBC - Fox News Hits New Hurdle in Sky Deal - Bill...
www.youtube.com

12:17 PM · Oct 24, 2017

182. In addition to using main stream media and print media to harm Butowsky's reputation, Wigdor used Twitter and Facebook.

3. Wigdor Personally Used Twitter and Facebook To Harm Butowsky

183. Wigdor used his Twitter account, @WigdorLaw, to simultaneously republish to a new target audience – **Wigdor's 421 Twitter followers** – virtually every false and defamatory statement Wigdor ever made to main stream media and print media. [https://twitter.com/WigdorLaw?ref_src=twsrc%5Egoogle%7Ctwcamp%5Eserp%7Ctwgr%5Eauthor]. Wigdor also republished every television interview given on and after August 1, 2017. Wigdor also retweeted and republished articles that contained false and defamatory statements about Butowsky. [https://www.thedailybeast.com/trump-told-fox-news-to-publish-seth-rich-murder-hoax-lawsuit-claims?via=twitter_page].

184. Wigdor republished to his 112 public Facebook followers the false and defamatory statements made to main stream media and print media, including the statements he made to Folkenflik and republished by Folkenflik and NPR.

[<https://www.facebook.com/WigdorLaw/>]. Wigdor's Facebook posts were "liked" and "shared" by multiple third-parties. Wigdor even thanked "Super Lawyers" for republishing his false and defamatory statements:



Like
Follow
Recommend
...

Wigdor LLP shared Super Lawyers's post.
August 2, 2017 ·

Thank you Super Lawyers for highlighting our case on your Facebook page!

Super Lawyers
August 2, 2017 ·

Rod Wheeler, a Fox News contributor and private detective, is suing the network, alleging racial discrimination and defamation. His lawsuit contends that two qu...

[See More](#)



Behind Fox News' Baseless Seth Rich Story: The Untold Tale
A lawsuit alleges the Fox News Channel worked with a wealthy Trump supporter to concoct a false report about the death of a Democratic...
NPR.ORG

4. Wigdor Used His Own Website to Promote Defamation

185. In addition to Folkenflik, Twitter and Facebook, Wigdor used his own website to promote and republish false and defamatory statements about Butowsky.

[<https://www.wigdorlaw.com/wheeler-case-involving-fox-news-trump-administration-seth-rich/>].

186. Wigdor's website republishes multiple false and defamatory statements about Butowsky, including the following oft-repeated quote:

"Rod Wheeler unfortunately was used as a pawn by Ed Butowsky, Fox News and the Trump administration to try and steer away the attention that was being given about the Russian hacking of the DNC e-mails."

Wigdor's infamous quote, repeated hundreds of times by third-parties in articles, blogs, tweets and posts throughout the Internet, has been republished numerous times within the past two (2) years, including by Newsweek on March 29, 2018 in the following online article:

HOW THE SETH RICH CONSPIRACY COULD STOP FAKE NEWS AT FOX NEWS AND OTHER CONSERVATIVE OUTLETS

BY **ALEXANDER NAZARYAN** ON 3/29/18 AT 9:19 AM



187. Wigdor's intention to extort Fox with the fabricated story about collusion with the President is exemplified by the picture Wigdor chose to publish and publicize on his website:



188. Wigdor and Wheeler's intentionally false and defamatory statements, republished by third-parties hundreds of times in the past year, have devastated Butowsky. His name and reputation have been globally impugned. Through millions upon millions upon millions of publications and republications, tweets and retweets, posts, likes and shares, Butowsky has suffered unimaginable insult, shame, humiliation and embarrassment.

189. In spite of Butowsky's efforts to get Wigdor to refrain from publishing and retract the false and defamatory statements, Wigdor refused.

COUNT I – DEFAMATION

190. Butowsky restates paragraphs 1 through 189 of this Complaint and incorporates them herein by reference.

191. Wigdor and Wheeler made and published to numerous third-parties – including Folkenflik, NPR, main stream media, print media, Wigdor’s Twitter followers and subscribers to Wigdor’s YouTube channel – false factual statements, which are detailed verbatim above, of or concerning Butowsky.

192. By giving interviews, appearing on television, uploading, posting, tweeting and retweeting, Wigdor and Wheeler knew or should have known that their false and defamatory statements would be republished over and over by third-parties millions of times to Butowsky’s detriment and injury. Republication by main stream media, print media and on social media was the natural and probable consequence of Wigdor and Wheeler’s actions and was actually and/or presumptively authorized by Wigdor and Wheeler. Wigdor and Wheeler are liable for the millions of republications of the false and defamatory statements by third-parties.

193. Wigdor and Wheeler’s false statements constitute defamation *per se*. The statements accuse and impute to Butowsky the commission of crimes involving moral turpitude and for which Butowsky may be punished and imprisoned in a state or federal institution. The statements impute to Butowsky an unfitness to perform the duties of an office or employment for profit, or the want of integrity in the discharge of the duties of such office or employment. Wigdor and Wheeler’s statements also prejudice Butowsky in his profession or trade.

194. Wigdor and Wheeler’s false statements caused Butowsky to suffer loss and injury to his business, insult, pain, embarrassment, humiliation, and mental suffering, harm to Butowsky’s name and reputation, and out-of-pocket loss.

195. Wigdor and Wheeler acted with actual malice and reckless disregard for the truth for the following reasons:

- a. Wigdor disregarded the advice of Wheeler and, in breach of his fiduciary duties and professional responsibilities, promoted the pre-determined false narrative that Butowsky colluded with the President to create “fake news”.
- b. Wigdor and Wheeler had a motive to lie about Butowsky, and a motive to fabricate charges collusion and “fake news”.
- c. Wigdor and Wheeler concocted their scheme and manufactured false statements about Butowsky out of whole cloth in order to extort money from Fox and, in Wigdor’s case, to scuttle the Sky deal and negatively impact Fox’s stock price.
- d. The statements were knowingly false, with not a shred of supporting evidence. In addition to Wheeler’s advice and admonition that he (Wheeler) had no evidence that Butowsky colluded with the President and not to make any such allegations, Wigdor was in possession of Wheeler’s email communications and text messages with Zimmerman, audio recordings on the Internet and other evidence that flatly and unequivocally showed the statements to be false. Wigdor consciously and intentionally ignored the evidence. He consciously and deliberately ignored Harrison’s letter. Wigdor chose to promote a predetermined false narrative that he knew would injure Butowsky.
- e. Wigdor and Wheeler chose to manufacture and publish false statements and use unnecessarily strong and violent language, disproportionate to the occasion.

f. Wigdor and Wheeler did not act in good faith because, in the total absence of evidence, they could not have had an honest belief in the truth of their statements about Butowsky.

g. Wigdor and Wheeler reiterated, repeated and continued to publish the false defamatory statements out of a desire to hurt Butowsky and Fox and with reckless disregard for the consequences.

h. Wigdor and Wheeler initiated the defamation and went out of their way in the press and on social media to publish extra-judicial statements about Butowsky.

i. Wigdor employed agents to digitally assassinate Butowsky's reputation.

196. Wigdor and Wheeler lacked reasonable grounds for any belief in the truth of their statements and acted negligently in failing to determine the true facts.

197. As a direct result of Wigdor and Wheeler's defamation, Butowsky suffered substantial damage and loss, including, but not limited to, pain and suffering, emotional distress and trauma, insult, anguish, stress and anxiety, public ridicule, humiliation, embarrassment, indignity, damage and injury to his personal and professional reputations, attorney's fees, costs, and other out-of-pocket expenses in the sum of \$118,000,000.00 or such greater amount as is determined by the Jury.

COUNT II – BUSINESS DISPARAGEMENT

198. Butowsky restates paragraphs 1 through 197 of this Complaint and incorporates them herein by reference.

199. Wigdor and Wheeler published false and disparaging information about Butowsky, which is detailed verbatim above.

200. Wigdor and Wheeler knew their statements were false and acted with the specific intent to extort money from Fox and injure Butowsky.

201. None of Wigdor or Wheeler's statements are privileged. Wigdor and Wheeler had no right to publish false and disparaging information about Butowsky. Wigdor and Wheeler knew of the falsity of their statements and acted with wanton, intentional and reckless disregard concerning publication. Wigdor and Wheeler acted with ill-will and they intended to interfere with the economic interests of Butowsky in an unprivileged fashion.

202. Wigdor and Wheeler's statements and actions constitute business disparagement.

203. Wigdor and Wheeler's business disparagement caused Butowsky to suffer and incur special damages, including loss of income and business and out-of-pocket expenses in the sum of \$118,000,000.00 or such greater amount as is determined by the Jury.

COUNT III – CIVIL CONSPIRACY

204. Butowsky restates paragraphs 1 through 203 of this Complaint and incorporate them herein by reference.

205. Beginning in June 2017 and continuing through the present, Wigdor combined, associated, agreed or acted in concert with Wheeler and with Folkenflik for the express purpose of injuring Butowsky in his business and reputation through the publication and republication of false and defamatory statements. In furtherance of the

conspiracy and preconceived joint plan, Wigdor orchestrated a scheme the unlawful purpose of which was to defame Butowsky, disparage his business and destroy his name and reputation. Acting in concert with Wheeler and Folkenflik, Wigdor utilized the Internet and various main stream media outlets and social media properties to publish, republish and spread the defamation and character assassination.

206. Wigdor acted intentionally, purposefully, without lawful justification, and with the express knowledge that he was injuring Butowsky.

207. Wigdor joint actions with Wheeler and Folkenflik constitute a civil conspiracy under Texas law.

208. As a direct result of Wigdor's misconduct, Butowsky suffered damage and loss, including, but not limited to, injury to and loss of business, injury to his reputation, insult, pain, humiliation, embarrassment, mental suffering, attorney's fees, court costs, and other damages in the sum of \$118,000,000.00 or such greater amount as is determined by the Jury.

COUNT IV – CIVIL RICO

209. Butowsky restates paragraphs 1 through 208 of this Complaint and incorporates them herein by reference.

210. Butowsky has been injured in his business and property by reason of Defendants' multiple violations of Title 18 U.S.C. § 1962, described above.

211. As a direct and proximate result of Defendants' violations of 18 U.S.C. § 1962, Butowsky suffered injury and loss of property in an amount to be determined by the Jury, but not less than \$118,000,000.00.

212. In accordance with 18 U.S.C. § 1964(c), Butowsky seeks threefold the damages he has sustained, the costs of this suit, and his reasonable attorney's fees incurred.

Butowsky alleges the foregoing based upon personal knowledge, public statements of others, and records in his possession. Butowsky believes that substantial additional evidentiary support, which is in the exclusive possession of Wigdor, Wheeler and their agents and other third-parties, will exist for the allegations and claims set forth above after a reasonable opportunity for discovery.

Butowsky reserves the right to amend this Complaint upon discovery of additional instances of Wigdor and Wheeler's wrongdoing.

CONCLUSION AND REQUEST FOR RELIEF

WHEREFORE, Ed Butowsky respectfully requests the Court to enter Judgment against Wigdor, Wigdor, LLP and Wheeler, jointly and severally, as follows:

- A. Compensatory damages, Punitive damages and Treble damages in the sum of \$118,000,000.00 or such greater amount as is determined by the Jury;
- B. An Order imposing reasonable restrictions on the future activities of Wigdor, including, but not limited to, prohibiting this attorneys and law firm from engaging in the same type of endeavors as the enterprise engaged in;
- C. Reasonable attorney's fees;
- D. Prejudgment interest on the principal sum awarded to Butowsky by the Jury from June 23, 2017 to the date of Judgment at the maximum rate allowed by law;

- E. Postjudgment interest at the maximum rate allowed by Texas law;
- F. Such other relief as is just and proper.

TRIAL BY JURY IS DEMANDED

DATED: July 31, 2019

ED BUTOWSKY,
In his Individual and Professional Capacities

By: /s/ *Ty Clevenger*
Ty Clevenger, Esquire
Texas Bar No. 24034380
P.O. Box 20753
Brooklyn, NY 11202-0753
(979) 985-5289
(979) 530-9523 (Fax)
Email: tyclevenger@yahoo.com

Counsel for the Plaintiff

Steven S. Biss (VSB # 32972)
300 West Main Street, Suite 102
Charlottesville, Virginia 22903
Telephone: (804) 501-8272
Facsimile: (202) 318-4098
Email: stevenbiss@earthlink.net

Of Counsel for the Plaintiff
(*Application for Admission Pro Hac Vice*
To be Filed)